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Making It Hard for the Regulatory Commissions

Analysis of unfortunate utility blunders

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By its very nature, regulation of public utilities is two-sided, the two parties involved being, of course, the public and the utilities. Between these two opposed interests, as the situation is popularly regarded, the regulatory agency sits in judgment. In practice, effective regulation encounters many difficulties and the rendering of equitable judgment is subjected to heavy handicaps.

Broadly speaking, these handicaps may be distinguished as belonging to two fairly separate classes, one each lying at the door of one of the two parties concerned with regulation. Under the first class comes that unfortunate lack of understanding by the general public of the technical and economic features of a highly specialized and complex business. This handicap results from ignorance and misinformation and to the spread of the latter both political demagogues and equally reckless promoters have contributed. The joint outcome of such contemporaneous efforts has been the expectation of inordinately low rates by consumers and of excessively large profits by investors, who in their common disappointment join in the popular chorus sounding the failure of regulation.

Such handicaps as these simply mean that the public in varying

degree expects the impossible; from the nature of the power business the public cannot be satisfied. Little need be said of this type of handicap except that it exposes the regulatory officials to constant criticism, until sooner or later they become gun-shy.

The other class of hindrances to effective regulation includes all those self-made handicaps which the various units of the power business have imposed upon themselves in their continued opposition to the public will. These handicaps mostly express mistaken views of what is demanded for the industry's own welfare, and their discussion can be far more constructive than any consideration of the public's misconceptions, largely resulting from the power issue being made a political football. Whatever value this critical analysis may possess will accrue to my friends in the power industry.

A fairly accurate diagnosis of these self-imposed handicaps is that they are symptoms of a faulty sense of public relationships. Too commonly there exists a well-masked belief that the public can be fooled and with this a decided lag in sensing public opinion, necessarily resulting in an even more regrettable lag in adopting new and better practices.

WHILE actively struggling with the task of regulating some of the larger corporations, either holding Federal licenses or holding the licensed operating companies, I was led to attempt a genetic classification of the blunders of big business as exhibited in the attitude of these corporations toward the public. For that hasty analysis, I can claim only that it expressed the reactions of a public official who had come to realize somewhat keenly and with regret the source and nature of the heavy handicaps unnecessarily imposed upon all efforts toward regulation, whether by the industry itself or by public agencies.

Back of the blunders so clearly made apparent in the course of the Federal Power Commission's daily routine, I realized a faulty attitude assumed by the power utilities and resulting, as I thought, from mental if not moral deficiencies. For purposes of brief description rather than elaborate discussion, I grouped these blunders as arising from arrogance, from blindness, or from cowardice, and I would now adopt the same simple, though confessedly incomplete, analysis of some outstanding defects of big business, its A, B, C—arrogance, blindness, and cowardice.

ARROGANCE is the unlovely side of big business.

Size of an undertaking and its apparent success have more often contributed to this attitude, which unfortunately is far too commonly, but not always, assumed by high—and low—officials of the government equally with those of corporations. It will be admitted that most of us receive more courteous and considerate treatment from an electric light or gas company official than from the tax collector.

No better illustration can perhaps be given of reciprocal arrogance than that instance where in an Arizona city the streets were unlighted. The power company, and this one not so big, had turned off the current be-

cause the city refused to pay the whole of the light bill and the city's excuse was that the company had not paid the whole of its tax bill. Corporate arrogance and official obstinacy left the public service at a dead center; public safety was sacrificed to personal stupidity.

This spirit of arrogance does not reserve its contemptuous attitude for the consuming public alone, for the stockholders of many corporations have been made to feel that they have little voice and less power in the conduct of the corporate affairs. The arrogant attitude of the company's officials would seem to indicate that they regard themselves as owners rather than employees with a real fiduciary obligation to the stockholders. This tendency has been well described by John T. Flynn in "Graft in Business" and diagnosed as a business disease rather than vice—a type of moral weakness, the cure for which is a generous application of spiritual energy.

WHETHER regarded as criminal or not, such betrayal of trust makes up an unsavory record of petty graft and wholesale robbery, that throws suspicion on many accounting items that come before commissions in the regular order of business. The necessity of applying the acid test to each transaction that has the least resemblance to an inside deal is a handicap to expeditious action and worse than that, it tends to convert an audit into a prosecution—a change that is not only vexatious, but far-reaching in consequences of delay and possible injustice.

A large proportion of these blunders that are traceable to arrogance in fact express only stupidity rather than anything worse. This distinction between business men's stupidity and their illegal practices must be kept in mind. Yet, the long list of stupid blunders made by self-sufficient officials constitutes a burdensome handicap, whether or not they carry any moral taint. Nor are these human errors merely a Twentieth Century incident. Why then blame all social troubles on the power age or the big business era?

Selfishness and unsocial stupidity probably began back in those days when cave men began to barter. There should be a strict fixing of personal responsibility for the blunders, rather than allowing the official to hide behind his corporation. If made to stand on his own feet and listen to his own conscience he may be less arrogant. Indeed, observation has been that the individual's personal morals are generally far better than his business ethics.

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THE second source of handicap is blindness.

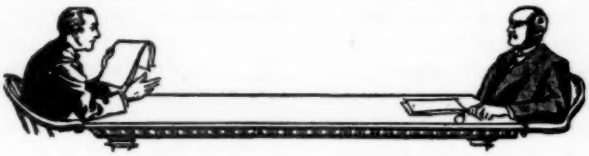
Long experience with corporation executives representing the three basic industries furnishing energy to our country—coal, oil, and water power—has demonstrated to me how blind many of them are to public opinion. More recently public relations have become a favored subject of study by wide-awake companies, but even this remedial treatment has not wholly removed the blind spots. It was the best kind of advice given by the editor of a technical journal when he called to the attention of the public relations departments of oil companies what constitutes their whole duty. He described that duty as not only to sell the company policy to the public, but what was more important to bring to the company's directors some idea of the public's views and opinions. The improvement already made in this particular has been great, but perfect vision is far off with the general run of the "higher-ups": they fail to see things from the point of view of us common folks. Over-high salaries possibly increase the separating distance and dim the vision.

THIS corporate blindness to public opinion handicaps the regulatory agency in its efforts to guide the utilities in the right path. "Half-blind" perhaps more exactly describes the affliction of some of the industry representatives that I have seen appearing before fact-finding and regulatory commissions, for they seem honestly unable to see beyond their side of the issue. And the blindness of corporation officials not infrequently extends to the economics of their own business; a phase of the blindness possibly having a genetic relation to their failure to see clearly the public aspects of their business. In the economics of a public utility, public relations are all-important, because what is good for the public in the long run benefits the utility.

Connected in a way with this affliction of imperfect vision is the secrecy policy that holds over in some degree from earlier days. All the experience of the past teaches that secrecy breeds suspicion, yet the obvious arguments for full publicity fail to open the eyes of some utility executives who continue to resist inquiries by government agencies and refuse the information so essential to establishing correct relations between their companies and the public, both investors and customers.

This blind resistance to the curative action of the sunlight of publicity is fortunately becoming less and less prevalent. In an early conference between applicants for a publicly owned power site and Secretary of the Interior Lane, I remember with what vehemence the government's access to the books of the power company was denied as encroaching upon private rights.

ANOTHER phase of publicity concerns the public's need, already mentioned, of a better understanding of the technical operation of the utility. While I was a commissioner I appealed to the members of the power division of a national engineering society to help in presenting the facts in everyday language. My observation had been that too often the technical terms of engineering were



High Lights in the Utility Picture

"In reviewing . . . examples of corporate stupidity, there is danger of missing some high lights in the utility picture. Indeed, the lack of modesty, vision, or courage which gives rise to handicaps in securing right public relations is fortunately not universal. Not all those corporation executives whose eyes are wide open to opportunities for material advance and technologic progress, are blind to the even greater need of their companies for progressive ideas relating to less tangible matters."

introduced into arguments for the purpose of camouflage—to conceal rather than to reveal meaning. Men of other professions also are sometimes guilty of this practice. A few of the operating men, however, have become most effective in translating the more difficult explanations of technique into plain statements worded in the English of Main Street. Others still persist in using technical terms, some of which are not as yet in the dictionary.

SIMILAR lack of consideration, expressed in other ways, hurts any industry's standing with the public, as, for example, when a public utility company handicaps itself by leaving to its learned counsel all its contacts with a public body.

Again relying upon personal impressions, a responsible executive of the corporation is believed to have definite advantages over his retained attorney in presenting many matters: the executive can speak with authority and without those reservations that tend when repeatedly made by counsel to plant doubts in the minds of those whom it is desired to convince. Nothing so favorably impresses a commission seeking the truth of the issue before it as the frank and unqualified statement of an executive who knows the facts firsthand and does not hesitate to present all the facts, even those that do not support his contention; no attorney, however skilful and eloquent, can secure the consideration intuitively given to his principal who thus tells the whole story.

It is probably experience of this kind that has contributed to the preference of some of the state commissions for informal conferences in place of the judicial hearings with a fixed procedure that seems to inhibit freedom in factual presentation. To anyone with an earlier training in fact-finding bodies, the legal techni-

calities with which the presentation of evidence before a *quasi* judicial commission is hedged about hamper rather than facilitate the exposition of the truth. Indeed, at times, fact-finding appears to have ceased to be the chief purpose of the procedure.

A LACK of perception of what present-day requirements are in this all-important matter of relations to their public has been chronic with the power company executives. Twenty years ago when Federal water-power legislation was being actively pushed and the opposition was strongly represented in Washington, I suggested to one power company president—perhaps the leader in the defense of "private rights" —that his attitude was not wholly reactionary but in a sense even "progressive," in that he conceded this year what he refused assent to last year and that he would continue to follow one lap or more behind the popular demand for reform. Of course, this rather brash description of the lag of big business due to its unwillingness, if not inability, to see the trend of human affairs was vigorously denied, yet through the years that have followed this same high executive and the interests of which he was, until recently, the active spokesman have carried on the same kind of rear-guard defensive.

There has been no greater handicap to progress in regulation than this strongly maintained resistance to every move for improved relations between the utilities and their public. And now the blind fight for unessentials—often trivial details—has incited popular indignation to the point where essential principles are endangered.

THE third cause of defective functioning by the utilities and a handicap to their effective regulation is cowardice.

A harsh word—cowardice—and seemingly inappropriate when applied to great basic industries, yet what more pleasing synonym can be used for the lack of courage to clean house?

Among coal and oil operators, those whose fixed policy has been to deal fairly with both employees and customers have shielded from public condemnation others in the business whose practices they privately denounced, and among the power companies whatever the inner discord, the public stand was one of united defense. This perverted idea of loyalty to associates is a variant of the gang spirit and hinders the public in any just discrimination between the fair and unfair units of an industry.

The disclosures of the present period, however, have forced a change of stand, and criticism has become bold enough to be helpful. Indeed, some officials not only denounce the blunders of others but even go so far as to admit that certain practices of their own companies have now been abandoned. And of late there is more general adherence to the broad theory that the public has rights.

IN reviewing these examples of corporate stupidity, there is danger of missing some high lights in the utility picture. Indeed, the lack of modesty, vision, or courage which gives rise to handicaps in securing

right public relations is fortunately not universal. Not all those corporation executives whose eyes are wide open to opportunities for material advance and technologic progress, are blind to the even greater need of their companies for progressive ideas relating to less tangible matters. Leaders in the power industry could be named who for years have been outspoken in their stand for equally fair treatment of both stockholder and consumer and their protection against overcapitalization by write-ups or other promotion methods. And these leaders are coming to have a larger following. Therein lies the hope of big business and its protection from its own blunders.

I chance to have before me a draft of a suggested code of ethics, written by a power man just two years ago—before codes were so common in the land. This proposed code strongly endorses constructive regulation as essential, urges honest and understanding coöperation between owners, employees, and public, that is based upon equitable division of benefits, and emphasizes good citizenship as a continuing duty with public confidence as something to be gained and held by full publicity as a continuing obligation to the public. In rereading this enlightened declaration of principles, I find therein nothing that a regulatory commission could not endorse as exactly in line with the ideals and purposes of public regulation.

A SURVEY of handicaps to regulation might concern itself with such topics as the retarding influence of the opposed theories of depreciation, the crying need of short-cut methods of determining the rate base, the obvious inadequacy of commission procedure that permits, if indeed it does not invite, long delays. These and many other like defects and deficiencies, however, make up the subject matter of authoritative articles in current issues of the PUBLIC UTILITIES FORTNIGHTLY which furnish abundant food for constructive thought. The intent, here, has been rather to suggest that chief among the obstructions that line the path of utility regulation is the stumbling block of human nature.

Accountancy may furnish the financial conscience, and law define the standards of obligation, yet these will be resisted except as the utility executives in control of policy and practice realize their true position as trustees, are enlightened with a clear vision of public service, and gain courage to follow that vision wherever it leads.

As those ideals come to be realized, the blunders of corporate stupidity will cease and the task of regulation in the public interest will become both easier and more fruitful.

"THE gas meter reaches its ninetieth birthday during this year. Yet at this venerable age, the meter has come down through nearly a century with scarcely a change in principles of construction from the first meter used in London in 1844. Hundreds of inventors have tried to produce something different and better, but have succeeded only in improving on details and that success has been attained only by following the original mechanical principles adopted ninety years ago for the correct measurement of gas."

American Gas Association Monthly. February, 1934.

The Forgotten Man In the Depreciation Controversy

No. 1. Fundamentals of the problem

THERE is usually a forgotten man or class of men in the discussion of every economic problem and in the opinion of the author this has been true in the case of the depreciation problem. This is the first of a series of two articles on the subject. In this article the straight-line, sinking-fund, and retirement methods of accumulating depreciation funds or reserves are analyzed and their relative merits from the customer's standpoint considered.

BY LUTHER R. NASH

THE regulation of public utilities in this year 2 N.D. (meaning New Deal) is no simple job. The commissions are, on the one hand, deluged with demands for rate reductions, and, on the other hand, confronted with increasing utility service costs, including taxes and higher labor and material prices. Many of the rate complaints are sponsored by self-appointed spokesmen who lack a clear understanding of the situation and, therefore, fail to represent the best interests of the customer, the "forgotten man" in this discussion.

The commissions, sympathetic toward rate reductions wherever they can reasonably be made, are naturally scrutinizing service costs to discover any excessive or improper charges which can be excluded from rate considerations. Unusual care in this respect is appropriate at the present time when customers' incomes are subnormal or have entirely disappeared.

In the light of these circumstances and the widespread demand for rate reductions it is disturbing to see certain regulatory commissions adopting or proposing certain changes from established practices which needlessly increase the present heavy burdens of utility costs.

The interests of utility customers in these changes seem to have been ignored. Their importance justifies a study of the reaction of an average customer to an analysis of their effect upon his service and its cost.

THIS study deals specifically with only one of these changes, that relating to depreciation, particularly the straight-line method of depreciation

tion accounting which is being prescribed or urged in various jurisdictions, either by the commissions or their accounting staffs, or by certain experts who claim to represent the customers' interests. The question to be considered is whether or not this method is of advantage to utility customers, most of whom do not understand its complications and technicalities. Depreciation as a factor in valuation is, however, so intimately related to depreciation accounting practices as to require consideration in any adequate analysis of the subject.

THERE are three recognized methods of providing for the retirement of utility property. One of these is the straight-line method, just referred to, which assumes that the useful life of property can be estimated with reasonable accuracy and that uniform provision for ultimate retirement should be made throughout such useful life. This method has been dealt with at length in Interstate Commerce Commission publications and is ably defended in detail in a paper prepared by the staff of the Wisconsin Public Service Commission and presented at the 1933 convention of the National Association of Railroad and Utilities Commissioners. This paper has been referred to as the "Bible on Depreciation."

The second method of providing for depreciation is the well-known sinking-fund method, which assumes the same knowledge of useful life and uniformity of charges but depends upon interest accumulations for the adequacy of retirement funds when needed.

The third method, known as the retirement method, is that included in the uniform system of accounts approved by the National Association of Railroad and Utilities Commissioners and in general use by local utilities other than railways. The purpose of this method is to provide not for accrued depreciation but for such funds as are needed from time to time for actual retirements and for such contingencies and further protection as may be deemed appropriate. It authorizes flexibility in current appropriations because mathematical exactness is inconsistent with the indefiniteness of retirement needs.

OBJECTIONS to the straight-line method are based primarily on uncertainties as to useful life. Utility executives who have had extended experience with various classes of depreciable property are of the opinion that past experience with useful life has been so widely variable that average or even specific figures have little significance, and that the kinds of equipment now being installed are so different either as to type or durability from those installed many years ago and since retired as to make predictions as to future useful lives of no definite value.

There is no question but that certain kinds of property wear out, decay, rust, or are retired from other cumulative physical causes. Experience shows, however, that such retirements comprise only a small percentage of the total value of utility property.

Studies of the causes of retirements covering long periods of years on properties widely distributed and of varying characteristics indicate that

less than one fifth of all utility property is retired for physical causes. The retirement of the balance of the property is due to nonphysical causes, including obsolescence, inadequacy, and supersession. None of these latter causes is uniform or regular in its effect.

OBSOLESCENCE becomes effective when some new device is available which permits the rendering of a given service at less cost than at present or a greater amount of service without increased cost. Existing units are retired only when such improved substitutes show a real saving and then only if existing financial conditions permit the necessary cash outlay. Although inventive genius is never idle, the time when a particular public utility may take advantage of new facilities and discard old ones cannot be definitely predicted.

The second group of nonphysical causes of retirements, called inadequacy, arises from growth in volume of service. Such growth, particularly in the case of the electric power companies, was for many years consistently rapid, and units otherwise entirely serviceable have been retired because they were no longer large enough to perform useful service. Obviously this cause of retirement, which in the past has been responsible for something like one quarter of all retirements, is directly dependent upon growth. If growth ceases because of depression, abandonment of industries or other activities in a particular community, governmental or other competition, political oppression, or other like causes, this factor in the determination of useful life becomes negligible.

THE third nonphysical cause of retirements, supersession, includes changes in, or abandonment of, facilities due to governmental requirements, such as changes in grade or paving of streets, placing of wires underground, or abandonments due to the establishment of parks or other civic improvements.

Such changes depend largely upon prosperity of a particular community, the urge for civic betterment, availability of necessary funds, and other factors which are rarely determinable in advance.

The irregularity in the effectiveness of these various causes of retirement was well expressed by Mr. Justice Brandeis with the concurrence of Mr. Justice Holmes, whose opinions have been highly regarded, in a dissent from the decision of the Supreme Court in United R. & Electric Co. *v.* West:

> There is no regularity in the development of depreciation. It does not proceed in accordance with any mathematical law. There is nothing in business experience, or in the training of experts, which enables man to say to what extent service life will be impaired by the operations of a single

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year, or of a series of years less than the service life.[1]

MANY tables of useful life of utility property have been published, although relatively few in recent years when physical causes have become less important. The authors of some of these tables have cautioned against their use under circumstances different from those on which the tables are based. At various times groups of engineers have been asked to record their experience and judgment as to useful lives, with such diversity in results as to make any compromise of their experiences impossible and to confirm the unreliability of specific estimates for general use. The writer's own intimate experience with public utility property covering a period longer than the commonly assumed life cycle of such property, leads to the conclusion that the most carefully prepared estimates of useful life may be in error to the extent of 50 per cent or more.

The experienced utility operator, thoroughly familiar with the conditions above outlined, is apt to get hot under the collar when told that his property is being "consumed" in service. He is well, perhaps painfully, aware that coal is being consumed in power production, but he sees no ashes or other evidence of deterioration around his pet generators which have been rendering faithful service for years. In fact, in view of certain reblading and other improvements, he may think they are better and worth more than when new—in other words, that there has been a negative "consumption." He, of course, visualizes ultimate retirement for some cause, probably not a cumulative one, but does not connect the accruing liability therefor with anything resembling consumption in service.

THE charges for depreciation in each accounting period under the straight-line method may be expressed by the following very simple formula in which C represents the cost of the property to be retired, less salvage, plus cost of removal, and N represents the number of accounting periods during the useful life of the property:

$$D = \frac{C}{N}$$

In this expression C can be determined from fixed capital records or estimated with reasonable accuracy, with approximate allowances for the minor factors of salvage and removal costs. In spite of such accuracy the answer involves an inaccuracy directly proportional to the indefiniteness of N. If N is uncertain to the extent of 50 per cent the answer is correspondingly uncertain in spite of assumed mathematical exactness. As was said by the Supreme Court in its recent Illinois Bell Telephone decision,[2] "The calculations are mathematical but the predictions underlying them are essentially matters of opinion."

A REVIEW of regulatory cases discloses frequent statements to the effect that because a certain factor cannot be determined with unquestioned accuracy it should not be ignored, and that the best possible estimates should be made based on available informa-

[1] 280 U. S. 234, P.U.R.1930A, 225, 236.

[2] Issued April 30, 1934 (3 P.U.R.(N.S.) 337).

Straight-line and Sinking-fund Reserves

"THE utility customer . . . is at once struck by the fact that the straight-line method requires more than twice the annual payment of the sinking-fund and retirement methods, that the accumulated reserve which it provides is about 50 per cent larger than the sinking-fund reserve and more than three times as large as a retirement reserve using charges equal to the sinking-fund annuity."

tion. Most important decisions depend upon judgment without exact tangible bases. Everyone admits that provision for depreciation or retirements is necessary, and uncertainties as to useful life estimates should not be a bar to their use and timely correction if the straight-line method is on the whole the best available one.

THE qualifying "if" in the foregoing statement cannot be overlooked, the problem being to determine whether or not *from the customer's point of view* the advantages of the straight-line method outweigh its disadvantages. An obviously important consideration is the relative cost to the customer of different alternative plans. The customer is naturally concerned primarily about immediate or out-of-pocket costs under the alternative methods, and a statement of these costs in the case of an assumed typical property will be of interest.

The average useful life of the elements of this property is thirty years, which is consistent with findings in various cases by experts in the United States Bureau of Internal Revenue. This property has grown at an average rate of about 7 per cent per year, also a normal rate. The percentages derived for the different methods apply only to depreciable property to be maintained through a reserve without specific consideration of salvage or maintenance practices.

This assumed property obviously requires a straight-line annuity of 3.33 per cent. Mathematical analyses indicate that under such annuities a stable reserve will ultimately be accumulated amounting to about 35 per cent of the total investment in depreciable property. Such analyses necessarily assume uniformities which do not in fact exist, but it has been shown that ordinary departures from uniformity do not materially affect the results, and analyses applied to specific properties show close agreement with experience.

IF, assuming the same useful life, a sinking-fund annuity is used, with 5 per cent annual interest allowances, the annual charge paid by customers is reduced to 1.51 per cent and the accumulated reserve with its recurrent interest additions will amount to about 24 per cent.

If the above annuity of 1.51 per cent is used but without interest ad-

ditions, the accumulated reserve will obviously be substantially less, being, in fact, only slightly more than 10 per cent. Incidentally this 10 per cent is a normal accumulation which many utilities properties have considered adequate for all practical purposes.

If other assumptions were made as to useful life, rate of growth, and interest rates, different results would be obtained but the relation between these results would not be substantially altered for normal utility property. A shorter average life period would tend to bring the straight-line and sinking-fund percentages closer together and a longer life period would make them more divergent.

The utility customer in scrutinizing these relative direct costs is at once struck by the fact that the straight-line method requires more than twice the annual payment of the sinking-fund and retirement methods, that the accumulated reserve which it provides is about 50 per cent larger than the sinking-fund reserve and more than three times as large as a retirement reserve using charges equal to the sinking-fund annuity.

If this were the whole story there would be no question about the customer's choice between the methods. He would select the smaller annual charge and be satisfied with the smaller reserve. But these comparisons do not disclose the whole story. There are possible offsets which are urged by the proponents of straight-line accounting, based primarily upon a reduced valuation to be used in rate cases.

It is sometimes assumed that if the straight-line method of depreciation charges is prescribed for or adopted by a particular property it at once becomes permissible to make reduction in the value of the property to the extent of full straight-line accrued depreciation without regard to the earlier accounting history of the property. That such a contention is inequitable can be shown by simple illustrations.

If it is assumed that the sinking-fund method has previously been used it is obvious that the reserves accumulated under this method must continue to earn for their own upbuilding so long as the particular property to which they apply remains in service. Such reserves are ordinarily invested in the utility's own property and the earnings therefrom would be cut off if deduction were made for accrued depreciation. There would, therefore, be no future opportunity to take care of alleged existing depreciation represented by the difference between the estimated straight-line reserve and the existing sinking-fund reserve.

The same reasoning applies to any other system of depreciation or retirement accounting under which the charges paid in the past by the customers have not exceeded the sinking-fund equivalent. In each such case the deduction of straight-line accrued depreciation in connection with the prescribing of straight-line annuities would permanently deprive the owners of the property of that part of their investment represented by the deficiency of existing reserves as compared with straight-line reserves.

The outstanding significance of this particular phase of the depreciation

problem has rarely been visualized, or at least clearly stated, even by those who have opposed the deductions in question. The present uniform systems of accounts designed and prescribed by the state regulatory commissions provide for retirement accounting. They do not recognize accrued depreciation, and the reserves created thereunder have been substantially less than straight-line reserves. They do not fix an upper limit of reserve appropriations or accumulations but many of the commissions have prescribed such limits far below straight-line requirements. If, in the absence of such limits, or prior to their effectiveness, the practices of the utilities have been consistent therewith, there can be no claim of negligence.

Accrued depreciation cannot equitably be found in excess of the provisions which customers have actually made therefor in the past. A new system under which customers pay more cannot be made retroactive as to annuities because of the impossibility or impracticability of assessing customers of earlier years for deficiencies. It cannot, therefore, be consistently applied to reserves or their use as a measure of depreciation.

CUSTOMERS who desire to be fair in their business dealings do not ask for more than they pay for, nor expect others to do so for them. Having been shown that deduction for accrued depreciation is inconsistent with a newly established program of straight-line annuities, they recognize the advisability of rejecting the latter. Such procedure would doubtless be disappointing to those whose main objective is a depreciated value, and this group apparently contains a large proportion of the advocates of straight-line annuities. To the extent that these advocates are amenable to reason and are seeking to protect the interests of utility customers, they must conclude that the method they have adopted to justify accrued depreciation is, in most cases, inequitable and futile as a means of present saving in cost of service.

It may be claimed that there must be some flaw in this contention that the combination of straight-line annuities and permissible deductions for accrued depreciation is not in the customer's interest because it is so frequently urged in their behalf. There might be more merit in this contention were it not for the fact that in a considerable number of rate cases the same combination has been used by utilities to aid in building up a cost of service which sustains existing or higher rates.

ALTHOUGH these utilities may have used the prescribed retirement system in their regular accounting

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practice, they have presumably been convinced that some deduction for existing depreciation would be required for consistency with legal precedents, that this justified the higher straight-line annuities for purposes of the rate case, and that the final showing of cost would be to their advantage. In reaching such conclusions they may have visualized more clearly than have their opponents the legal or equitable limitations surrounding depreciation deductions.

In spite of the common lack of understanding or recognition of the limitations involved in the initial use of straight-line accounting, they have been visualized, in part at least, by some of the proponents of this system as evidenced by the following quotation from the Wisconsin pamphlet, "Depreciation," to which reference has already been made:

> To shift suddenly to a policy of "straight-line" depreciation accounting usually necessitates depreciation expense allowances larger than the retirement expenses theretofore charged. To make this transition, however constructive from the long-time point of view, is difficult at a time when a rate reduction is being insistently demanded. Furthermore, during the transition period, when the retirement reserve is neither a true retirement reserve nor a true depreciation reserve, the treatment of such a reserve in finding accrued depreciation presents many perplexities.

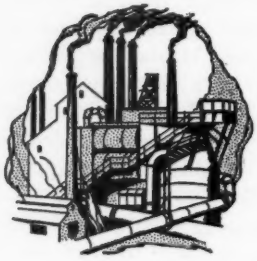
The simplest way of avoiding injustice in connection with newly established straight-line annuities would be to continue the use of an undepreciated rate base until the deficiency in prior reserves had been made up. If the sinking-fund method had been used for not more than half the useful life of a property such as that used herein for an illustration, it would take about fifteen years of straight-line annuities with interest accumulations to build up a full straight-line reserve.

Another possible method would continue interest allowances and an undepreciated rate base so long as the older property to which they are related survived, with an independent straight-line accumulation and depreciated value applicable to all new property. Such distinctions and the necessity of independent calculations of the corrections involved in discovered errors in useful life estimates would make any such system of accounting unduly complicated and expensive.

As a practical matter the utility customer, understanding and accepting the equities of the situation, finds himself faced with the impossibility of immediately securing the benefit of a depreciated rate base as an adequate offset to the higher straight-line annuity which he is called upon to pay, and as far as he can see this disadvantage may continue for a long period of years. The straight-line annuity, therefore, appears as a distinct disadvantage and an unnecessary addition to the current cost of service.

The extent of the customer's disadvantage can be roughly shown in the case of the typical property used herein to illustrate the differences in depreciation assessments under alternative systems of accounting. The straight-line assessment was found to be greater than that under the sinking-fund method to the extent of 1.82 per cent. To offset this excess fully there must be a reduction in the rate base which will reduce the fair return by a similar amount. To accomplish this adjustment, after allowance for

Basis of Opposition to the Sinking-Fund Method



"If, as is usually the case, the sinking-fund accumulations are invested in the utility's own property they must earn a return and no deduction from the rate base for accrued depreciation is permissible. The fact that this deduction for accrued depreciation cannot equitably be made is the real basis for much of the opposition to the sinking-fund method. Its economic soundness has rarely been questioned."

nondepreciable property, the rate base must be reduced by 20 per cent or more depending upon the characteristics of the property. Such percentage reduction might be permissible on a mature, nongrowing property but with the growth commonly experienced that would not be the case.

The accrued depreciation commonly found by the regulatory commissions in the cases where some deduction is found appropriate is below the amount stated, indicating substantial growth or immaturity in reserve accumulation or both. Under normal conditions, therefore, the customer loses, at least for the time being, by the use of straight-line depreciation instead of the sinking-fund or its equivalent.

Even after a long period of years in which a straight-line system had been used, with an accumulated reserve equal to one third or more of the total investment in the property, the customer would not be sure that the system would work to his advantage. This reserve, contributed by him and invested in the property, might not earn a return consistent with that which he could secure from some other investment of his own choosing. This would be particularly true if he joined in efforts, such as are now prevalent, to bring about drastic utility rate reductions.

The customer may well ask why he, or a regulatory commission in his behalf, should assume the responsibility for an equitable adjustment of the very intricate interrelation of depreciation annuities and reserves if this responsibility can be transferred to the utilities where it logically belongs. If under such disposition of responsibility the utility fails to provide adequate reserves the fault is its own and it must make good any errors or shortcomings.

This result is accomplished by the sinking-fund method. We have seen that the annual cost to the customer is less than one half that of the straight-line method. The utility takes the responsibility for investing these annuities and the accumulation of adequate reserves. The customer may properly demand that the utility take care of all required retirements from the

reserve so accumulated as long as the estimates of useful life on which the annuities are based are not known to be in error. If such errors are discovered the annuities must be increased or decreased accordingly.

IF, as is usually the case, the sinking-fund accumulations are invested in the utility's own property they must earn a return and no deduction from the rate base for accrued depreciation is permissible. The fact that this deduction for accrued depreciation cannot equitably be made is the real basis for much of the opposition to the sinking-fund method. Its economic soundness has rarely been questioned.

The use of an undepreciated value in connection with sinking-fund annuities has been approved by the United States Supreme Court in at least two recent cases. In the Los Angeles Gas & Electric case [3] in 1933 the court accepted this arrangement prescribed by the California Railroad Commission. In the Clark's Ferry Bridge Case in 1934 the court upheld the decision of the Pennsylvania court from which the following was quoted:

> . . . it is not entitled to an allowance, which, exclusive of interest earned on the fund, will be sufficient to rebuild the bridge, when its life is done, but only to such an allowance as will with reasonable interest added make a fund sufficient to replace the bridge when it requires replacement.[4]

This same procedure has been followed in other court decisions as well as in proceedings of commissions.[5]

[3] 289 U. S. 287, P.U.R.1933C, 229.
[4] 291 U. S. 227, 2 P.U.R.(N.S.) 225, 231.
[5] Milwaukee *v.* Railroad Commission (Wis. C. C.) P.U.R.1920B, 976, 1005; *Re* Wisconsin Teleph. Co. P.U.R.1925D, 661, 669; Public Utilities Commission *v.* Capital Traction Co. 57 App. D. C. 85, P.U.R.1927B, 824, 830.

THE sinking-fund method has not been commonly used in the past, in part because of its complications and also because of uncertainties in useful life estimates. For property of relatively long life an overestimate may result in serious deficiencies in accumulated reserves because of the increasing effect of interest compounding as the life period nears its close. If under this method errors in useful life are discovered it is necessary to make elaborate computations for corrective purposes including the amount to which existing reserves will accumulate during the revised remaining life, the balance necessary to be accumulated in this same period, and the rate necessary for this accumulation. If such computations are made independently for each class of units instead of for the property as a whole the difficulties are multiplied.

The customer, although impressed with the advantages to him of the lower sinking-fund annuity, may be disturbed by the cost, which he must bear, of the accounting complications involved and, while unwilling to accept the straight-line substitute with its deceptive simplicity, may ask why the purposes of the sinking-fund method cannot be accomplished without its complications and still afford similar protection.

SUCH results are, or may be, accomplished under the retirement system of accounting. We have seen that if retirement annuities corresponding with sinking-fund annuities are systematically charged the reserve ultimately accumulated would exceed 10 per cent of the total investment in the property. While this is only one

third of the straight-line accumulation it can be doubled if desired by interest accumulations. Reserves of the order of 10 per cent have not only been thought sufficient for retirement purposes by utility executives but also by regulatory commissions.[6] If the customer asks whether because of such reserve limitations service has deteriorated or his interests have otherwise suffered, the answer is "No" as far as the records of normal properties disclose.

The essential difference between the sinking-fund and retirement methods is that one assumes an accuracy in useful life estimates which is not, in fact, realized, whereas the other substitutes an informed business judgment as to adequacy of reserves. If the retirement reserve is credited with interest earnings resulting from investment in the property or elsewhere, the accumulated reserve will in due time reach the proportions of a sinking-fund reserve without the complications of the latter.

If retirement reserve appropriations are of the magnitude here referred to, not exceeding sinking-fund annuities as is usually the case, an undepreciated rate base is necessary, and again the reduced annuity offsets any advantage which the customer might ultimately secure from a deduction for accrued depreciation. This exclusion, like that under the sinking-fund method, is probably responsible for much of the opposition to retirement accounting.

ROUTINE accounting under the sinking-fund method involves credits to retirement reserve for both the annuity and current interest on the accumulated reserve. The former only is a direct charge against customers in any proceeding for determining the cost of service. Under corresponding retirement accounting such separation of the current credits to the reserve may or may not be made. It has been the practice of certain commissions in rate proceedings to fix a suitable sum as a total annual credit to the reserve and to include among the charges against customers only the difference between this sum and the current earnings of the existing reserve.[7] Such procedure avoids the complications of the sinking-fund method strictly applied, and if the balance currently charged to customers is found by occasional review to corre-

[6] *Re* Consolidated Gas, E. L. & Power Co. (Md.) Order No. 7609, June 12, 1923; *Re* Tennessee Electric Power Co. (Tenn.) P.U.R.1930E, 312.

[7] *Re* Duluth Street R. Co. (Wis.) P.U.R. 1923D, 705, 737.

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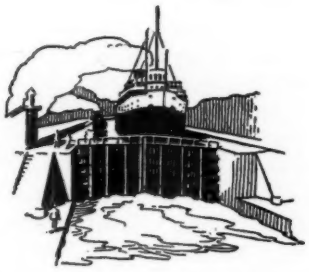
spond substantially with a sinking-fund annuity the essential requirements of the sinking-fund method are met. This balance should not be reduced materially below the sinking-fund level. Customers having made sufficient contributions to permit the accumulation of full provision for retirements, the responsibility rests upon the company for adequacy of the accumulations. If the company fails to add interest accumulations to the reserve it still has the obligation to meet all retirement requirements from the smaller reserves which are available.

THE customer may inquire why the company should not be required to add interest accumulations to the reserve to which he directly contributes, thereby building it up to full sinking-fund standard or as an alternative either forego a return from the existing reserve or accept a further reduction in customer assessments for retirement purposes. Neither of the alternative procedures is equitable under any plan by which customers are expected fully to provide for the currently accruing liability for future retirements.

It is considered to be generally desirable to add current earnings to a small reserve and this procedure should be required, directly or indirectly, where an undepreciated rate base is used.

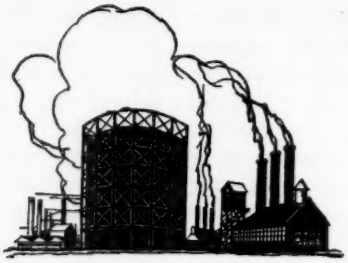
The second and concluding instalment will appear in the following issue of this magazine—out November 8th.



Government in Unfair Competition

THE national government is a common carrier on the Mississippi river system through the Inland Waterways Corporation. This enterprise was undertaken to demonstrate the practicability of private common carrier enterprise on such waterways. Inasmuch as it operates tax free, without return on capital, and with the absorption of certain other expenses by the government itself, the experiment does not seem to demonstrate anything concerning the practicability of private common carrier enterprise on those waterways. Furthermore, with such government assistance this enterprise is in unfair competition with private transportation services. The government should promptly withdraw from this enterprise, by sale to private capital, or by liquidation.

—From the Report of the Transportation Conference, 1933-4.



Research and Rate Making in the Gas Industry

How quiet workers in the research laboratories have made possible greater comforts, greater conveniences, and greater efficiency at less cost.

By RAYMOND FRANCIS YATES

It was a murky English night in the year 1784 that a man wearing a wooden hat and seated on a strange tricycle propelled by steam terrified the citizens of a quaint village who thought it was, indeed, the spirit of the Evil One himself. This curious contraption also carried a weird light made possible by a mysterious substance carried in a pig's bladder.

Those who know the history of the development of gas recognize this man in the wooden hat as William Murdock, the real father of the gas industry. He was very much interested in developing a steam-propelled vehicle and out of the genius of his great mind there also came a lathe upon which a mechanic could turn oval shapes. Hence, the wooden hat which was worn by Murdock to advertise this accomplishment.

That pig's bladder gas lamp marked the inception of gas research and while it would be interesting to trace the line of development since that time it will be obvious to the reader that we do not have sufficient space at our disposal. Like all early research in the arts and sciences, it was more or less haphazard; it was not planned as it is today. There was no organized effort to reduce costs and increase convenience. What perfection came was the results of individuals and not organizations.

The gas industry is today one of the few industries farseeing enough to establish a highly centralized organization devoted wholly and efficiently to the betterment of gas service in all of its branches. In its final analysis, the American Gas Association is a body brought into being largely for the purpose of cutting costs to the consumer through added efficiency in the consumption of the

product. Sagely the industry reasons that those who serve best will be best rewarded.

The extent and the range of the gas research that has been conducted during the past few years is amazing to say nothing of the technical improvements that have been effected as a direct result of this work. Naturally those not connected with the industry think of it largely as a matter of supplying home gas ranges and hot water heaters. There was a time when this was quite true but today we have several hundred other and very important applications of gas heat. The new applications of industrial gas heating and heat treatment especially in the metal industries have been amazing merely because intensive gas research, both independent and under the auspices of the American Gas Association, pointed the way to higher efficiency and still better results.

PERHAPS we are a little ahead of our story. Inasmuch as the average person thinks of gas only as a domestic commodity we shall tell something of the results that have been brought about in gas research in this particular branch of the field. As little as twenty five years ago, gas ranges were in a pitiful state of technical perfection even though they represented a vast improvement over the pioneering equipment of the Nineteenth Century. The thermal efficiency was very low, the cost was high, and rare, indeed, was the family who really felt that it could afford *all* of the hot water that it actually needed.

Not only have we been presented with higher thermal efficiency in gas ranges but a cleaner and more healthy form of heat, sootless and greaseless. Some idea of the intensity of recent research along these particular lines may be gained from the fact that only during the recent past six months the efficiency of top burners has been increased to the amazing extent of 30 per cent!

IF every gas range user in the United States were to take advantage of this new equipment tomorrow perhaps thirty to fifty millions of dollars would be clipped from the national gas bill next year. Offhand one would think that research that tends to cut costs would be a sort of industrial hari-kari but the utilities have long since found that what is good for the customer is good for them. By increasing use you lower the rate and bring the greatest possible good to the greatest possible number of people.

Some notion of the improvements that have taken place in water heating equipment may be gained from the fact that the modern thermostatically controlled heating tank is several hundred per cent more efficient than the average old-fashioned, noninsulated tank now in use. Modern heaters heat the water only and not the cellar.

A few years ago the gas-heated home was a winter luxury of the first order. Today it is more or less a commonplace that higher heating efficiency and lower rates have made possible even to families of modest means. These results have been brought about in the face of increased labor and materials cost, an accomplishment that may be credited to research alone. Domestic heating has

been brought from an uncertain, uncontrolled, and costly process to a point where it is acknowledged by heating engineers to be the most ideal and the most easily controlled system.

SOME notion of its swift growth may be gained from the fact that in 1925, after the elapse of a more or less experimental decade of house heating by the real pioneers of the gas utility industry, only forty-three manufactured gas companies had established special low rates for domestic heating purposes. This figure represented but a small fraction of a vast industry, but by 1933, 646 special rates were in use. Today over 90 per cent of the customers of gas utilities can avail themselves of the many advantages of this form of winter protection.

The low level of natural gas rates has always made house heating with that fuel attractive but full advantage could not be taken because in the early days of pioneer effort none but the most wasteful means of utilizing this ideal heat were known. Research and development have changed that. The higher efficiencies and the more accurate methods of control have created not only a superior heating service with natural gas but also lower costs to the consumer. This growth of use has come at a time when competition from other sources, the chief of which is the oil burner, has been of the keenest sort.

ALTHOUGH not directly concerned with the matter of increased gas consumption, the American Gas Association has vitally concerned itself with the development of automatic controls and other auxiliary equipment that would tend to make the gas-heat user more satisfied with his installation. Thus a great deal of work has been done not only with the perfection of controls but also with humidifiers, filters, and air washers. When such equipment is used with gas heat the one and only faultless heating system is brought into being.

Although the effect would be to lessen its load for the time being, the gas industry is now looking and working for a system in the form of control that would automatically proportion the input to the heat loss. This gained, the gas industry could boast of the only system wherein this ideal was made possible. Tomorrow this new development may be perfected and if so an unprecedented growth of gas heating will be the inevitable result.

Like its sister agent electricity, gas may not only be used for heating but for cooling, as the perfection of gas refrigeration has shown.

❦

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WHEN cooling agents are mentioned one cannot help but think of America's new and promising infant, air conditioning. Many hold that our new prosperity will be based on this development in which gas is bound to play a major rôle. Much of the pioneer work has been done in this field and the public is rapidly becoming conscious of the luxury afforded by such equipment.

Gas experts say that the cost of operating properly designed air-conditioning equipment with gas is slightly lower than the cost with other agents. Due to the powerful absorption of a chemical substance called silica-gel, a domestic air-conditioning machine has been constructed that will operate without attention and at a very reasonable cost. The average well-built home will require a system of from four to six tons' capacity. Data have been taken on a silica-gel absorber and a steam ejector operating in the vicinity of New York and it has been found that the cost per ton hour, using New York rates for this type of work, averages 7.9 per hour for the two installations. The rates are 60 cents per thousand cubic feet for gas, 5 cents per kilowatt hour for electricity, and $1 per thousand cubic feet of water. Using the method of operation employed in New York, the absorption system is somewhat the cheaper of the two in operating cost. However, owing to the different relative costs of the two forms of energy and water used this might possibly be reversed.

ALWAYS alert to new and better ways of using gas and to new applications, the research department of the gas industry has been investigating the air-conditioning field with characteristic thoroughness. These experiments have been country-wide and data are now available showing the relative costs of conditioning homes from New York to Dallas, Texas. Nor has the field offered by public buildings been lost sight of for work of this nature has occupied the attention of research experts for a number of years.

In passing it is interesting to note how great industries can be struck low by failing to key their research at least ten years ahead of current practice. The writer could mention a dozen industries that are at the present time looking ahead at least a decade developing apparatus that has no immediate prospects of application. A great company, once conducting a major industry, was struck low almost overnight by the appearance of radio broadcasting. This was the price paid for neglecting a form of research that had been obvious for a number of years.

RETURNING to the matter of air conditioning by gas, it is worthy of note that this development dovetails with the general program of the industry, the program of equalizing load over the entire year. If gas heating continues to grow as it has grown over the last few years, the time would soon come when summer load would be so low compared with the winter load that fixed charges would be very difficult to cover during this period of the year. At the present moment the prospects of the growth of air conditioning are such that it is highly possible that it will entirely

The Object of Research by the American Gas Association

"THE research laboratory of the American Gas Association, at Cleveland, Ohio, represents the ideal of developing and testing all sorts of gas equipment from domestic ranges to burners for the heat treatment of metals. The object of this work is simply that gas shall maintain its position and give to the consumer his full value. Back of this laboratory there stands a code that is model to all who serve the public."

offset the additional winter consumption caused by heating. As a matter of fact there are many enthusiasts in the industry who think that air conditioning will rapidly outstrip heating by gas. In a sense this is quite logical for the simple reason that nearly half of the United States is semi-tropical and the demand for protection from heat would be more or less steady in these zones.

THE research laboratory of the American Gas Association, at Cleveland, Ohio, represents the ideal of developing and testing all sorts of gas equipment from domestic ranges to burners for the heat treatment of metals. The object of this work is simply that gas shall maintain its position and give to the consumer his full value. Back of this laboratory there stands a code that is model to all who serve the public. All official tests are made to determine compliance with approval requirement prepared by committeemen representing gas companies and appliance manufacturers as well as representatives from the Bureau of Standards, United States Bureau of Mines, United States Public Health Service, and the Master Plumbers Association. Such research as is necessary in the preparation of the safety portion of these requirements is carried out by the testing laboratory of the American Gas Association in coöperation with the Bureau of Standards.

The establishment of an official testing laboratory marks one of the most progressive steps ever taken by any industry in raising the standards of its public service. Contrary to the procedure adopted by most other approval laboratories, the work of the American Gas Association, through its official testing agency, is based almost entirely on public standards or specifications, in preparation of which

impartial experts outside of the industry coöperate actively and the results of which can be verified at any time by competent experts.

THE approval requirements as they are drawn up are minimum requisites for satisfactory performance, substantial and durable construction, and safe operation. In their preparation sight was never lost of the necessity of providing every opportunity for manufacturers to improve their appliances and to embody individuality in their construction. It was overall efficiency and safety in which the association interested itself. As an example, a careful survey by the association brought out the fact that the average gas pressure for the United States represented 3.5 inches of water column and, therefore, the minimum standard of operation for all equipment was based upon this figure. Permissible pressure variations usually extend to 50 per cent either way and this, too, was considered in all tests.

Only those intimately associated with the industry are in any way cognizant of the vast improvement that has been brought to domestic equipment alone through these testing methods. For the first time a single, unbiased organization has set certain desirable standards and this, combined with the 100 per cent coöperation that this body has received from manufacturers and gas companies, has made the work extremely effective and profitable at least to the public at large.

DURING the last two years the laboratory has conducted research in the preparation of safety requirements for gas ranges, space heaters, water heaters, and central house heating appliances, and also approved from test or inspection approximately 6,000 gas ranges, 300 space heaters, 50 water heaters, 15 types of flexible gas tubing, and a number of central heating plants. Considering that there are about 175 tests made on each gas range, 250 tests on a space heater, 200 tests on each water heater, and 150 tests on central heating plants, some idea of the enormous work of this laboratory can be appreciated.

The electrical utility industry will never be faced with the problems that now confront the gas industry. A major problem is brought about by the failure of certain of our sources of natural gas. If service is to be continued it is necessary to compensate for these losses and this has brought up the knotty problem of gas mixture, that is the mixture of natural gas with manufactured gas. To one not familiar with the technical considerations involved this might seem like a very simple problem, indeed, but it is far from it. If the entire United States had a standard mixture of gas at a standard pressure, the problem of developing appliances would be greatly simplified. As it is, pressure varies between rather wide limits and various mixtures are used not out of choice but largely out of necessity. Thus gas is taken from coke ovens, from oil wells, carbureted water gas plants, and other sources to meet the needs of the day.

THERE is at the present time a great deal of original research going on in connection with the prob-

lem of mixing gases and great promise is being held out for this work. It is hoped that a means of combustion will be found that will greatly increase present efficiency and the public can rest assured that these findings, immediately they are known, will be made available to every producer of gas equipment. From two to five years more of intensive effort will probably be required before this problem can be solved. In finding desirable mixing formulae, the research workers must not only take into consideration all of the modern gas ranges and heaters but millions of antiquated appliances as well.

Along with this problem comes the rather mechanical problem of transporting these new supplies of gas over increasingly long distances and here, too, the industry as a whole has made some rather rapid strides. It was but a short time ago that the Columbia Gas and Electric Corporation completed 460 miles of 20-inch O. D. line from Warco, Kentucky, to Coastesville in eastern Pennsylvania. Just as soon as a few minor problems are solved, gas lines several times greater in length will begin to weave a great web over the United States.

ONE would have to write a rather substantial volume to cover the gas development that has gone on even during the past few years. Especially intensive has been the research in connection with purely industrial applications of gas. The organized research represented by the American Gas Association (to say nothing of the large number of independent laboratories working on similar problems) has included such things as forge heating, bread baking, diaphragm burners, noise elimination, large-size short tunnel burners, brass melting, annealing, oven furnace design, core baking, decarburization of steel, refrigeration, air conditioning, short cycle malleableizing, gas immersion heaters for galvanizing tanks, etc.

Such briefly are the research activities of the gas industry in the United States. Perhaps no research going in this country today, save that of the various government departments, is more public-spirited than that of the gas manufacturers. This sort of research benefits the consumer *first* and the manufacturer is satisfied if it will *eventually* benefit him by lowering the costs to the consumer and thereby enlarging his market by the attraction of more clients and larger consumption.

Not all improvements work out in precisely this manner but on the whole it may be said that the gas manufacturers have taken a very wise course and that the gas industry has grown to its present size and importance because it deserved to grow.

"NEW rules, yes, we should loyally accept them and abide by them; the government as referee, yes, with extended powers, more than we have dreamed of before; but the government as actor, as contestant with its own people, well, Americans will hesitate long, I think, before they permanently cross that great divide."

—OWEN D. YOUNG,
President, The Academy of Political Science.

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

WENDELL L. WILLKIE
President, Commonwealth & Southern Corporation.

"I have no particular opposition to increased regulation of utilities."

TED V. RODGERS
President, Eschenbach & Rogers, Scranton, Pennsylvania.

"Trucking rates are as stable as the railroad rate program will permit them to be."

Electrical World.

"More than half of all consumers now using electricity in this country are carried at a loss."

JOSIAH W. BAILEY
U. S. Senator from North Carolina.

"I wish to heaven that we could once realize that every tax laid is a burden upon industry, upon agriculture, and upon commerce."

DAVID E. LILIENTHAL
Director, Tennessee Valley Authority.

"We have been given a national power policy to execute in the Tennessee valley. Under this new policy prudent investment in useful property will not only be respected but protected."

A. G. MCKNIGHT
Director of Litigation, National Recovery Administration.

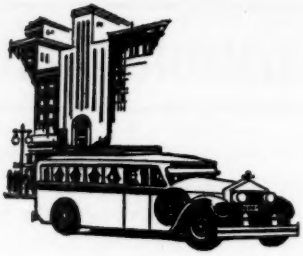
"We contend that the end to be achieved by NIRA is wholly within the powers of the government and that the act is so free, in its whole set-up, from any arbitrary or capricious methods, that its constitutionality, as against the due process argument, is unassailable."

GEORGE B. CORTELYOU
President, Edison Electric Institute.

"So long as each individual company continues to do a better job of rendering electric service than any other organization is capable of doing, it may confidently be expected that electric light and power companies will continue to sell the great bulk of electricity used in the United States."

SAMUEL O. DUNN
Chairman, Simmons-Boardman Publishing Company and Editor, Railway Age.

"Unless we are going completely to abandon an economic system which is based mainly upon the private ownership and operation of property, we must, if prosperity is to be restored, act in accordance with the principle that capital, as well as labor, has rights which must be fully recognized."



The Kansas Port of Entry Law

A bold departure from previous practice in motor carrier regulation

By D. J. TEVIOTDALE

THE state of Kansas is now well launched upon an interesting experiment in motor carrier legislation. Kansas was the first to suggest and then to adopt the principles of the Uniform Motor Carrier Law approved by the National Association of Railroad and Utilities Commissioners in 1932.

Although fully convinced that the principles it enunciated are sound, experience has shown the desirability of certain further steps. The new experiment is one of these.

Locally known as the "port of entry" law, the new act is primarily designed to insure the roadworthiness of all vehicles entering the state and to force them to pay their just share of the upkeep of the state highway system. The law was drawn by Charles W. Steiger, general attorney of the Kansas Corporation Commission, was passed by the state legislature in November, 1933, and became effective January 1, 1934. Although still early to appraise the full effects of the law, a sufficient time has now elapsed to make a preliminary estimate.

THE Uniform Motor Carrier Law, among other requirements, calls for registration of all common, contract, and private operators with the appropriate regulatory body; the carrying of adequate insurance by the operators for the protection of the public; and the collection of a ton-mileage tax for the use of the public highways. In Kansas, some assurance of the collection of this tax is given by a requirement that a deposit, commensurate with the rated tonnage of the vehicle, be placed with the commission and that the tax due be charged off this amount each month. Generally speaking, this provision has proven to be adequate for the common carriers, the larger contract carriers, and the private operators.

In line, however, with the experience of other states and that of Kansas under its previous law, it was felt that a large number of smaller contract operators were successfully evading the law, in whole or in part.

This was chiefly because of the difficulty of catching the offender redhanded in a violation, particularly in view of the small force available for enforcement.

Likewise the law did not make adequate provision to deal with the operator who was not regularly engaged in business in Kansas, who made only occasional trips into the state as the opportunity offered. This man made no contribution to highway upkeep nor was there any assurance that his vehicle was adequately covered by insurance or mechanically fit to be on the road.

THE latest law was designed to correct these abuses and its provisions represent a bold departure from previous practice. The act creates a "port of entry" board composed of the director of the state highway system, the chairman of the corporation commission, and the director of the state department of inspections and registrations. The vehicle commissioner is directed to coöperate and the board is entrusted with the task of supplementing the efforts of these four departments in the enforcement of the statutes which are under their respective jurisdictions.

The port of entry board is directed to designate a sufficient number of highways entering the state adequately to accommodate commercial motor traffic in passengers and property. On each of such highways there is to be established, just within the state border, a registration office or port of entry. Every commercial motor vehicle entering the state must stop at this office and submit to inspection. Adequate particulars as to make, state identification, insurance carried, weight and kind of cargo, its origin and destination must be given, and the officer on duty examines the vehicle for roadworthiness. If the vehicle is one which has been properly registered with the corporation commission and is found to be in sound mechanical condition, a clearance certificate, in the form of a windshield sticker, is issued and permission granted to proceed.

IF the vehicle complies with the law in all particulars except registration with the commission, which includes tax deposit, a special permit, good for one trip and one trip only, will be issued upon payment of the proper road tax for that trip. The scale of this tax is as follows: if the gross weight of the vehicle and cargo does not exceed 15,000 pounds, the tax is 1½ cents per mile for the one-way mileage only. If the weight is from 15,001 pounds to 25,000 pounds, the tax is 2 cents per mile and a vehicle weighing in excess of 25,000 pounds is required to pay 3 cents per mile.

It will be noted that the tax is levied on *one-way* mileage only. It was hoped that by imposing no tax on the return trip, out-of-state operators would be encouraged to take back a load of Kansas products which otherwise would never reach the markets served by these truckers.

This trip-by-trip tax is applicable to all trucks, whether domiciled in or out of Kansas unless, as has been said above, they are already in good standing with the commission by reason of having registered and placed a

Highway Ports of Entry

"THE port of entry board is directed to designate a sufficient number of highways entering the state adequately to accommodate commercial motor traffic in passengers and property. On each of such highways there is to be established, just within the state border, a registration office or port of entry. Every commercial motor vehicle entering the state must stop at this office and submit to inspection."

deposit to guarantee payment of taxes. Of course, the tax is not collected from those vehicles which are exempted by statute because of the nature of their operations, for example, the transportation of live stock to market by the owner thereof. Such operators, however, do not escape the registration and inspection of their vehicles for roadworthiness.

THESE are the main provisions of the law. How have they worked in actual practice? Figures are now available for the first three months of 1934 and show that during that period 117,613 trucks passed through the ports of entry. Preliminary estimates show that this number will be greatly exceeded for the second quarter of the year. These trucks were classified by home states as follows:

Kansas	47,712
Missouri	33,262
Nebraska	16,694
Colorado	3,617
Oklahoma	13,115
Miscellaneous	3,213
Total	117,613

During the 3-month period the mileage tax payable by these trucks amounted to $112,406.65. Of this sum $32,494.70, or nearly 30 per cent, was collected from truckers making "casual" trips. Obviously, this money would not otherwise have been collected by the state. The remainder represents charges against the tax deposits previously mentioned. This amount shows a substantial increase over the previous year. For the first three months of 1933, the mileage tax collections were only $45,363.66, whereas the same quarter of 1934 yielded $79,911.95.

THERE is no doubt that the new law has brought many trucks out of "hiding" and has made all operators more careful as to the accuracy of their mileage returns to the commission. One instance is on record of an operator who for months had been paying the proper tax on six large transports but the careful inspection of engine numbers and other identification marks at the ports of entry disclosed that he was actually operating twenty-five such units through the state.

The inconvenience of paying the

tax trip by trip has resulted in many carriers making application for registration under the commission, a tendency which has been increased by the fact that the trip tax is at a somewhat higher rate than that imposed under the method of annual registration. A comparison of the applications for registration for the two periods follows:

	1933	1934
January	93	192
February	100	109
March	95	167

It cannot be claimed that the act has the whole-hearted endorsement of everyone in the state. There are many who claim that it is an unjustified interference with interstate commerce.

THE majority of the complaints have arisen in connection with Kansas-Nebraska shipment of live stock into the Missouri river packing centers. The statement is made that much traffic is being diverted to Omaha, Nebraska, and St. Joseph, Missouri, and other cattle markets. Likewise, many of the interior cities claim that the act has been of great help to the jobbers as it has tended to keep down out-of-state competition from Nebraska and Oklahoma wholesalers. The exact measure of truth in either of these positions is difficult to determine but studies are now under way to show, if possible, the extent of such diversion.

Suggestions for reciprocity with adjoining states have been advanced but it would appear that the power to enter into such an agreement is lacking except as to tag taxes. Nebraska has no mileage tax similar to that of Kansas so it is difficult to see what reciprocity might be extended in this case. Some idea of the position of Kansas in any negotiations looking to such reciprocal agreements may be gained from the following comparison of interstate movements of commercial vehicles during the 3-month period:

Kansas entering Missouri	31,809
Missouri entering Kansas	29,153
Kansas entering Oklahoma	9,103
Oklahoma entering Kansas	11,196
Kansas entering Colorado	2,991
Colorado entering Kansas	2,579
Kansas entering Nebraska	3,809
Nebraska entering Kansas	12,454

ON the whole, the law appears to have met with a favorable reception. Undoubtedly it has done much to promote safety on the Kansas highways as well as imposing a greater measure of responsibility upon the operators. The net contribution to the highway funds is not inconsiderable.[1]

Many people, however, look forward to a day in the not far distant future when neighboring states will enact retaliatory legislation. If the law is a good law for Kansas, then it should be a good law for Missouri, Oklahoma, Colorado, and Nebraska. But, in effect, this law establishes a ring of local customs houses around the state of Kansas.

The writer looks forward with considerable interest to the reactions to the "port of entry" law within the next few years especially if, in that period, some one or more of Kansas' sister states should pass similar legislation.

[1] Exact figures as to the cost of enforcement are not yet available. The expense is shared by the corporation commission, highway department, and bureau of registrations and inspections. No one of these has made compilations of cost at the date of writing.

OUT OF THE MAIL BAG

Half Truth about Taxation of Thrift

YOUR "Thumb-Nail Essay on Taxation of Thrift" [PUBLIC UTILITIES FORTNIGHTLY, June 7, 1934, issue] is one of those half truths which tend to lead to wrong conclusions. The thrifty man can invest his savings in either of two ways:—

(1) In the machinery and tools of production and distribution, including working capital and stocks of merchandise, used and useful in performing the service functions of production and distribution, which are essential for the continuance of civilized life. Government contributes nothing to the value of such investments; any taxes levied thereon inevitably tend to curtail such investments, reduce employment, and increase the cost to the ultimate consumer of the services made possible by such investments. A tax on gasoline increases the cost of the baby's milk and increases infant mortality.

(2) In the vested right to collect ground rent, or in the case of mineral deposits royalties, without performing any service. The entire value of such investment is derived from organized society and the value to the owner may be, with limits, increased by reducing the quantity of such property actually used at any time. A tax on such property tends to decrease its price and to increase its use, thus increasing opportunities for employment and reducing the price of goods and services.

THE investor in the first kind of property very truly as you say "earns his own way as well as the man who works with his hands, and is quite as valuable a citizen to his government as any other. There is no valid reason why he should be discriminated against on the ground of the nature of his income."

The investor in the second kind of property not only performs no service as the owner thereof but secures from government the vested right to an income without service. Our present system of taxation discriminates against those who perform the service functions of working with head and hands and against those who assume the risks inherent in investment in labor products used as capital for the production and distribution of wealth and the performance of all service functions, in favor of those who have the vested right to a purely parasitic income.

Nearly all business enterprises combine both functions. Our system of taxation which taxes heavily investments in service functions and incomes derived therefrom while taxing lightly the investment in the parasitic function is the real cause of the difficulties in which we find ourselves. The attempt to escape from these difficulties without removing their cause is doomed to ultimate failure. Politicians are not the only ones who refuse to think in terms of functions and think only in terms of persons. When business men think of functions rather than of persons, including artificial persons—corporations, some progress will be made toward solving the problem of increasing destitution alleged to be caused by overproduction.

—WARREN S. BLAUVELT,
Troy, N. Y.

Federal Protection of the Small Investor

FOR some time we have heard considerable talk emanating from Washington with regard to "protecting" the small investor and spokesmen for the Roosevelt administration have again and again urged the people of this country to have confidence.

In view of all this talk from official Washington, I should like to call to your attention what the administration has done to "protect" the small investors in the preferred stock of Tennessee Public Service Company.

As I understand it, the company's $7,000,000 of first and refunding mortgage 5 per cent bonds, due in 1970, will be taken over by the TVA at 96½, which is the price they were sold at to the public in September, 1930. The Knoxville Traction first mortgage 5 per cent bonds, due in 1938, an assumed obligation of Tennessee Public Service Company outstanding to the amount of $780,000, will be taken over at 100.

As you will see, the bondholders really have no complaint at all, except that they will be deprived of a perfectly good investment.

It is the preferred shareholders who are forced into accepting the terms of the Tennessee Valley Authority, or the government, through one of its agencies, will advance funds to the city of Knoxville so that the municipality may install its own power stations and distribution facilities in competition with the Tennessee Public Service Company.

The Tennessee Public Service Company has outstanding 50,000 shares of $6 preferred stock, without par value, which was sold to the public, under the company's customer-ownership plan at $100 per share, as recent as December, 1930, the initial dividend being paid February, 1931.

ACCORDING to a statement, quoted verbatim in a recent issue of Moody's public utility semi-weekly supplement, the preferred shareholders will receive between $35 and $40 per share. This statement is made by Mr. R. W. Lamar, a vice president of Tennessee Public Service Company.

According to the same official, the common stock, all of which is owned by the National Power & Light Company, will become practically worthless. I believe a small traction property is all that is left, as all the power property not taken over by the TVA was sold to Appalachian Electric Power Company. The transactions have been ratified by the shareholders at a recent meeting at Augusta, Maine.

This is one case at least where nobody can truthfully say that the bankers for the company "watered" the stock, a very silly statement all too prevalent nowadays about railways and public utilities. This stock was sold directly to the shareholders by the company, and no bankers or investment firms ever received a penny in commissions. Also, if the company were "overcapitalized" as some "New Dealers" will doubtless maintain, it seems hardly probable that in depression year, such as 1931 was, the company would have earned $15.35 per share of $6 preferred stock.

Several other companies are now menaced by the government's power projects; the more important are the Alabama Power Company and the Tennessee Electric Power Company in the Commonwealth & Southern group. I am very much afraid that the shareholders of the Memphis Power & Light Company, a subsidiary of National Power & Light Company, will suffer the same fate as those who owned Tennessee Public Service Company preferred stock, unless they organize to protect their rights, as the TVA is urging the city of Memphis to use TVA power.

To a minor extent the Southern California Edison Company, Limited, has been threatened, and nearer home the Bangor Hydro Electric Company may be hurt by the proposed development of the Quoddy tidal power project.

PUBLIC utility preferred shares and public utility bonds have for years been regarded, and rightly so, as a safe and desirable repository for the investment funds of thousands of small investors all over the United States, as well as by charitable institutions, schools, churches, hospitals, banks, and insurance companies.

As a security salesman, I have handled this class of securities entirely, and have until recently felt perfectly safe in doing so, for, as you know, the public utility industry "came through" the depression better than any other industry. My entire future in the business world is dependent upon the welfare of the utility industry.

I cannot see why the publicly owned public utility undertakings should be exempt from compliance with the NRA, with its burdensome restrictions and increased costs, whilst the privately owned public utilities must comply with it and, in some instances, in spite of the increased costs, have been ordered to reduce rates.

Why is it that the government is paying farmers for not producing and is continually placing emphasis on "overproduction" in industry and business, and yet seeks to duplicate existing power properties which can produce all the power needed for a long time to come? Indeed, it is difficult for me to discuss the puerile, silly, "yardstick" theories, of the "brain trusters" and the President, in moderate language.

—GEOFFREY SPURR,
Boston, Mass.

Confiscation by Government Competition

WHEN a new street is cut through the property of the citizens of a community, or when an existing street is widened, the property destroyed, by making these improvements, is condemned, and the owners are compensated for the appraised value of their property thus taken possession of by the municipality in which it is located.

Why, then, should not a similar procedure be followed by the national government when, by erecting huge power plants, which it can operate at a less cost than can privately owned plants, it deprives its citizens of the use of their property, representing large investments of capital?

Though these cases may not be strictly analogous, the difference between them is so slight as to produce the same result. Stealing the business of the people without compensation is a much greater injustice than condemning their realty for which they receive some recompense.

—BENJAMIN L. TOMES,
Philadelphia, Pa.

What Others Think

Should Gas Rate Practice Be Overhauled?

THERE is an increasing belief in Washington that the Federal Trade Commission is going to give a great deal more attention to gas utilities during the concluding phases of its utility investigation. This was broadly hinted in the interim report of the commission to the Senate digested in a newspaper release dated September 23rd.

The importance of the gas industry is apparent, the commission said, "when it is realized that it is already delivering to the public several times more energy than that represented by the entire commercial supply of electric energy. . . ."

Interstate pipe lines, according to the report, deliver gas from the natural gas fields to almost every metropolitan area east of the Rocky Mountains, except in New England and several southeastern states.

"Public interest also attaches to the natural gas industry from the fact that four large groups moved over 60 per cent of all the natural gas transported across state lines during 1930," the commission said. "These same four groups also controlled about 60 per cent of the total natural gas pipe-line mileage of the United States."

EXAMINATION of accounts and records of a gas and electric holding company has just been completed, while field work has been started on a large gas company and several other utility companies, according to the report. Much of the work to be done during the remainder of the investigation will be devoted to gas producing and distributing companies and to pipe-line companies, the commission said.

One of the commission's investigators, J. W. Adams, recently testifying concerning gas utility practices in Ohio and Kentucky, urged that there be Federal regulation of the natural gas industry to prevent gas companies from making excessively long lines at the ratepayers' expense. Praising the gas utility's practice along other lines, Mr. Adams stated:

> The effect of the corporation's policy of protecting future operations through control of reserves is to saddle the companies constituting its system with heavy expenses in the form of annual lease rentals for undrilled acreages held in reserve.
>
> Not to incur such expenses leaves the field open to overexploitation of dwindling resource.
>
> When such expense items are allowed by public regulatory bodies determining rates the effect is to saddle present consumers with all of the expense of carrying reserves for consumption possibly twenty-five years in the future and possibly for a whole different consumer group.

THESE developments are giving a number of rate experts, both within and outside of the gas industry, much food for thought. There is arising a feeling that gas rate practices might be looked over carefully with a view to making them more flexible so as to enable the industry to cope with the increasing pressure of competition resulting from decreasing power rates throughout the country. There have even been some rumors in Washington that the Federal government might engage in a study of comparative rates charged for gas service similar to the survey now being made in the field of electric rates. However, the prompt and extensive reports of gas rates charged throughout the United States, now being furnished by the American Gas Association, would seem to obviate the necessity for such a Federal undertaking.

There are other factors to be consid-

ered in any general rate study for the gas industry. There is the need for promotional rates which becomes exceedingly emphatic, in view of the competition for business with which this industry is now faced as the result of TVA activities and widespread private electric utility rate reductions.

O. L. Maddux, industrial engineer for the United Gas and Fuel Company of Hamilton, Ontario, made some pertinent remarks on this subject at the recent convention of the Canadian Gas Association in Montreal. He stated:

> Too often gas companies having only their domestic rate divided as a rule into two or three steps to appease certain of their larger customers lie stagnant as far as growth is concerned, having no opportunities to serve the larger fields of their communities and face the future with slight hope of more than following the general trend of growth of the community which it serves. When something happens in a competitive way to cut into the market that has heretofore belonged to the gas utility, one of two things inevitably happens, either the gas undertaking dies on its feet or a new awakening comes with the endeavor to seek other fields in addition to aggressively protecting its present market.

MR. Maddux goes on to demonstrate with two detailed tables: (1) the apportionment of gas utility property and the return thereon to four basic elements of cost; (2) the apportionment of operation expenses to the same elements. Based on these allocations derived, as Mr. Maddux suggests, by a careful accounting analysis of all distribution costs, he recommends a consideration of a number of alternative rate forms, many of which are in common use in the electric industry in the United States. Mr. Maddux stated:

> It is not within the scope of this paper to recommend any one particular type of rate. The fairest rate from the utility's standpoint would be a 4-part rate which apportions all of the costs to each customer. This, however, is not a practical rate as it entails entirely too much bookkeeping. There are several types of rates in use today that mention will serve to bring their form to mind:
>
> 1. Straight-line rate.
> 2. Service charge and straight-line rate.
> 3. Step rate.
> 4. Service charge and step rate.
> 5. Block rate.
> 6. Service charge with block rate.
> 7. Small initial block with block rate, first block being concealed service charge and minimum bill.
> 8. Two-part rate (demand charge and commodity charge).
> 9. Three-part rate (customer charge, demand charge, and commodity charge).
> 10. Refunding block rate, wherein at some point a low step is made to offset all or part of excess charge of the initial block or blocks as desired.
> 11. Service charge with refunding block rate.
> 12. Flat demand rate.
>
> The consumption of gas per domestic customer is generally in inverse proportion to the amount charged per thousand cubic feet. Theoretically if no charge would be made for gas no other fuel would be used but the moment that any charge whatever is made the consumption will begin to fall off. The higher the price the less gas will be used until a certain point is reached, from which point upward no gas will be sold.

OF course, much of this may seem "old stuff" to American gas rate experts, many of whom are engaged in joint supervision of gas and electric rates, but the fact remains that less promotional rate experimentation has been done in the gas field than in the electric field. There may be many reasons for this—the biggest perhaps being the inherent advantage of storing gas which makes that service less sensitive to complicated demand requirements.

A recent statement accredited to C. A. Winder, city rate expert for El Paso, Texas, may prove mildly surprising to some readers. Mr. Winder was engaged in negotiating a rate compromise with the natural gas utility serving that community and in the course of the proceedings he suggested that an optional rate might be a solution whereby the company could go forward with its plans to stimulate increased usage, while small consumers on a different rate would not be penalized for their small usage. Whether or not this was a proper or expedient solution is beyond the knowledge of this writer. He was more interested in Mr. Winder's statement that the "optional rate sched-

ule" is an innovation in gas rate making, although quite common in electric rate procedure. Mr. Winder may be in error on this point, but the statement challenges attention.

ANOTHER factor that might well be considered by gas rate experts in further general rate revisions was the electric rate ordinance passed by the Cincinnati, Ohio, city council which contained a clause allowing the utility protection against rising costs by means of automatic rate adjustments. The clause covers any increase in operating expenses that may result from code costs or inflation. It provides for automatic rate increases to cover any increase in operating costs of more than $200,000 a year. Conversely, a drop in operating cost in the same amount would warrant a corresponding downward rate adjustment.

Said the *Gas Age-Record* about this clause:

> The Cincinnati rate structure provides rate flexibility which should allow the Union Gas and Electric Company a large measure of protection from the grinding millstones. We have gone on record many times on this page as believing that drastic inflation is inevitable in this country. Our views have not changed and we urge gas company executives in all cities to give careful consideration to such hedging features as the new Cincinnati ordinance offers.

It must not be thought by the foregoing discussion that the gas industry has in the past been asleep. On the contrary, its alert and valiant fight for business has won respect throughout industrial and regulatory circles. J. H. Reed gives us an interesting account of the work accomplished by the Atlanta Gas Light Company in the face of powerful TVA range competition. Writing in the *Gas Age-Record,* Mr. Reed states:

> When, some months ago, the threat of TVA cheap electric power ceased to be vague and took on very definite shape and form, and when local power companies prepared to meet the "TVA Invasion" by going to their state public service commissions and securing downward revisions of domestic and commercial rates, officials of the Atlanta Gas Light Company and its affiliated properties saw at once that definite steps would have to be taken to meet and overcome this new competition.

MR. Reed tells us of the organization of an "army" of salesmen who took the field on April 15th and sold 600 gas ranges in two weeks—a record in that territory. His company feels that this campaign was a success. He adds that by "taking the offensive" the gas utilities can insure business for themselves, notwithstanding cut-rate power developments. Reports of militant gas appliance operations in Tupelo, Mississippi, give a similar impression. As Mr. Reed concludes:

> By taking the offensive in the matter of appliance sales, the Atlanta Gas Light Company is insuring business for itself in spite of all that the TVA can do. It has put the power companies on the defensive which, in military parlance, gives it the advantageous position in the coming battle for business.

Well, it's the public that will be the final judge of what it wants. Gas utilities that feel that they are the stepchildren of the New Deal by reason of the fact that the Federal government has placed its full weight behind lowering rates of its power competitors and behind wider distribution of cheaper competitive electric appliances, may find some comfort in the fact that the National Housing Act, which was set up as a government agency to finance at low cost loans for repairs and improvements by property owners, permits the purchasing of gas appliances under such loans. By an interpretation of Albert L. Deane, deputy administrator of the FHA, the way has now been cleared for a contest on equal terms for new business in this field by the gas and electric utilities. —F. X. W.

PROMOTIONAL RATES FOR GAS SERVICE. By O. L. Maddux. Address before Annual Convention, Canadian Gas Association. Montreal, Canada. June 4 and 5, 1934.

CINCINNATI RATE ATTRACTS ATTENTION. Editorial. *Gas Age-Record.* August 11, 1934.

ATLANTA GAS LIGHT COMBATS TVA RANGE COMPETITION. By J. H. Reed. *Gas Age-Record.* September 22, 1934.

Does America Need a "Grid" Electric System?

PREVIOUS mention and comments have been ventured in these pages on the recent trip of Director David E. Lilienthal of the Tennessee Valley Authority to England to study the British "grid" system of electrical interconnection which is operated by a government board and serves the entire country. Since then a number of interpretations have been given Mr. Lilienthal's visit abroad and the remarks he made shortly before sailing. Here is one version by the noted newspaper political columnist, George Durno:

> He went officially for TVA but it must be remembered Lilienthal also is one of the eight members of President Roosevelt's special power committee which has been charged with drafting a new American policy by winter.
>
> The power barons aren't viewing Lilienthal's transatlantic jaunt with any pleasure whatever. Utilizing the big Federal power projects already under way, together with those on the new deal program which still lack congressional ratification, the British system could be duplicated very nicely in this country—although it would be very painful for the so-called power trust. In England the government controls all power at the source. A comprehensive network of transmission lines—known technically as a grid—covers the island. John Bull generates the power and sells it to private companies. They in turn service the population—but their rates to the public are governed by what it costs them originally.

But there develops some doubt whether the "grid" idea does not already exist in the United States. Indeed, there is a suggestion that the canny Britons stole the idea from us and now Mr. Lilienthal is trying to steal it back again. Such is the general purport of a communication published in *The New York Times* over the signature of John P. Coghlan who is vice president of the Pacific Gas and Electric Company.

Commenting on Mr. Lilienthal's visit to Sir Andrew Duncan, chairman of England's Central Electricity Board, Mr. Coghlan says:

> Out here in California we expect Sir Andrew to be greatly surprised when Messrs. Lilienthal and Evans arrive in England. Five years ago, in May, 1929, Sir Andrew himself and his chief engineer, Archibald Page, came from England to California in search of information and ideas which would help them to develop the English power network. They spent an entire week studying the Pacific Gas and Electric Company's transmission and distribution system. They were frank in saying that they had come the great distance because this company had pioneered in interconnection and had developed a grid system known to electrical engineers the world over. "Grid," by the way, is only another word for "interconnection." Sir Andrew and his associate carried away many ideas which they have since introduced into England.
>
> If Messrs. Lilienthal and Evans had come to California we could have shown them an interconnected system that covers a territory almost as large as the whole of England and Scotland combined. Our more than 35,000 miles of transmission and distribution lines link together in a vast electric network an area of 89,000 square miles.

WHILE it may annoy some jealous Florida citizen to learn that Californians scooped the world on "grid" electric systems, there is a French Canadian up in Quebec who apparently doubts the blessings of the British operation as far as cheap rates are concerned. He is Mr. P. H. Boufford, K. C. Addressing the Private Bills Committee of the Quebec Legislature when municipalization of electricity for the city of Quebec was being considered, Mr. Boufford gave the following data:

> I have selected at random certain sections in England, seven cities in the United States, six in Ontario, and nine in Quebec.
>
> Honour to whom honour is due, so I shall begin with England.
>
> London—Rate 10¢; No. of kw. hr., 200.
>
> Yorkshire Limited, distributes in a vast, densely populated manufacturing territory. Service charge $1.25. 2¢ 1st 80 kw. hr.; 1½¢ for the balance.
>
> Glasgow—9½¢ 1st 15 kw. hr.; 1½¢ for the balance.

ANOTHER IDEAL SPOT FOR A GOVERNMENT POWER DAM

Birmingham—9¢ 1st 333 kw. hr.; 8¢ 2nd 116 kw. hr.; 7½¢ 3rd 1,133 kw. hr.

It is not surprising that the citizens of the last-mentioned city erected a statue to Mr. Chamberlain for having established a system with such high rates. It is not a statue; it is a temple that they should have dedicated to him.

We shall now come back to this side of the ocean. Let us study the conditions in the United States. Examining the rates in seven large cities, you will see that no two have the same rates:

New York—10¢ 1st 10 kw. hr.; 6¢ 2nd 5 kw. hr.; 5¢ for the balance.

Boston—7½¢ 1st 20 kw. hr.; 5¢ 2nd 70 kw. hr.; 3¢ for the balance.

Chicago—8¢ 1st 15 kw. hr.; 6¢ 2nd 15 kw. hr.; 3¢ for the balance.

Miami—12¢ 1st 20 kw. hr.; 10¢ 2nd 30

kw. hr.; 9¢ 3rd 50 kw. hr.; 8¢ 4th 900 kw. hr.; (discount 5%).

Cleveland—5¢ 1st 40 kw. hr.; 4¢ 2nd 200 kw. hr.; 2.8¢ for the balance.

Seattle (where a municipal system exists) —5.5¢ 1st 40 kw. hr.; 2¢ 2nd 200 kw. hr.; 1¢ for the balance.

Let us now look at Ontario:

Toronto—Service charge 33¢; 2¢ 1st 60 kw. hr.; 1¢ for the balance; (discount 10%).

Windsor—Service charge 33¢; 2½¢ 1st 60 kw. hr.; 1¢ for the balance; (discount 10%).

Oshawa—Service charge 33¢; 3.5¢ 1st 40 kw. hr.; 1½¢ for the balance; (discount 10%).

Peterborough—Service charge 33¢; 2.5¢ 1st 50 kw. hr.; 1½¢ for the balance; (discount 10%).

Goderich—Service charge 33¢; 3¢ 1st 55 kw. hr.; 1½¢ for the balance; (discount 10%).

Alexandria—Service charge 33¢; 5¢ 1st 60 kw. hr.; 2¢ for the balance; (discount 10%).

Quebec—Service charge 30¢; 3.6¢ 1st 60 kw. hr.; 2.25¢ 2nd 340 kw. hr.; 1.55¢ for the balance.

Asbestos (municipal service)—6½¢; service charge 25¢.

Baie d'Urfé (municipal service) 10.8¢; service charge 20¢ to 50¢.

Dorval (municipal service)—5¢; service charge 15¢ to 40¢.

Megantic (municipal service)—12¢.

Pointe-Claire (municipal service, since discontinued)—8½¢.

St. Anne de Bellevue (municipal service) —8¢; service charge 15¢.

Sherbrooke (municipal service)—6¢.

THAT Mr. Boufford was not "hand-picking" his American cities to show low rates is indicated by his omission of St. Louis, Mo., and Washington, D. C., where rates by private operators are exceptionally low. That he was not striving to show high rates for municipal plants is likewise indicated by his inclusion of Cleveland and Seattle both having similar low rates. It is interesting to note that notwithstanding the comparatively low rates reported for Quebec, Mr. Boufford tells us the average monthly usage there is only 40 kilowatt hours. On this basis he finds that the monthly bill in London would be $4, in Yorkshire, $2.05, in Glasgow, $1.80, in Birmingham, $3.60 as compared with $2.55 in New York, $2.40 in Chicago, $2 in Cleveland, and $2.20 in Seattle. There may be many reasons for adopting the British grid system in America but these rate comparisons certainly do not indicate the advantages.

Incidentally the Tenth Annual Report of the Electricity Commissioners published in 1931 gave the average price per kilowatt hour for domestic service in England at 6.10 cents. The average "bulk" cost per kilowatt hour was given as 1.34 cents. (These figures in United States "cents" computed on the basis of 1d=2 cents). It will be noted that the spread between cost to the distributor and the retail residential price including distribution costs is just about the proportion in England under the grid system as it is in the United States. Apparently distribution costs of electricity need to be investigated in England as well as in America.

—F. X. W.

GRID. By George Durno. Editorial. *Austin American.* August 13, 1934.

IMPARTIAL DISCUSSION OF ELECTRIC SERVICE. By P. H. Boufford, K. C. *Dual Service Quarterly* (Montreal Light Heat & Power Consolidated). July, 1934.

A Puff for the Panama Canal

REALLY something ought to be done about the large amount of free advertisement which government officials in control of our ever-increasing bureaucracy receive as the result of the many one-sided articles and books being published about the operation of various government departments. The works are written by well-meaning and very often able authors of impeccable academic background. This kind of propaganda is all the more confusing because it is, very often, unconscious as far as the authors are concerned;

also, because these publications are labeled "studies," "reports," "analyses," etc., and as such, purport to be disinterested but in fact reflect such a sympathetic attitude toward the agency being "investigated," that the usual concluding chapters, entitled Criticisms or Suggestions or Recommendations, are so polite or "constructive" that they do little to dispel the reader's ultimate reaction that our public administration is just swell.

This is just the reverse of the brand of governmental investigation that was in vogue twenty or more years ago when Lincoln Steffens, John Spargo, and the rest of the heroic band of talented muckrakers were turning out such vituperative classics as "The Shame of the Cities." When a publishing house or a newspaper sent one of the old muckrakers' school out on an assignment concerning city hall, he never went near city hall—never even approached the mayor or any of the city council. Instead, his technique was to go down into the slums and tenderloin and dig up all the unfavorable data possible and then check against the printed records and statements of the officials just to show what great hypocrites and grafters had managed to get into public office.

NOWADAYS, our literary investigators appear to be more naïve. The technique is quite the reverse. Does the school of public administration of a large Eastern university wish a "study" of let us say, the National Bureau of Standards? Very well, Dr. Jones of the school faculty is sent to Washington and the first place he goes is direct to the Bureau where he tells the director what he wants. The director is, of course, all smiles and courtesy. Dr. Jones is shown through from bow to stern. He interviews a number of equally polite and valuable subordinates and finally comes away with enough material to write a book telling what a splendid institution the Bureau is and what intelligent and charming gentlemen operate it. He may end up with a suggestion perhaps that the charming gentleman ought to get more money or have more authority, or more assistants. This comes under the general head of "constructive criticism."

The latest example of this powder-puff school of investigatory literature appears to be in the form of analysis of an important experiment in government operation, to wit: the Panama canal. The author is Professor Marshall E. Dimock of the University of Chicago, School of Public Administration. After the director of the school, Mr. Louis Brownlow, had interchanged letters with Secretary of War Dern, the latter "expressly invited" the author to study the Panama canal. Professor Dimock was given about ten weeks' leave of absence from teaching duties and managed, he tells us, to get in a three months' trip to Panama, where he assembled most of the data which make up his study.

THE author's preface profusely thanks a number of officers in the canal service for the aid extended to him and tells us how well the staff of engineers coöperated. We can well imagine it. Professor Dimock's book reads very much like a report prepared by the governors of the Canal Zone for Congress. (Professor Dimock may be recalled as the same research author who paid a polite visit to England a few months ago and forthwith published a very readable report about the operation of public utilities in England, as told to him apparently by charming officials of the British Post Office and the Central Electric Board.) Here is a sample passage from Professor Dimock's chapter on "Conclusions":

> The government-operated services in the Panama Canal Zone should be viewed with pride by American citizens. This is the general reaction of the writer after seeing the Isthmian services in actual operation and after considering the record of twenty years of civil government and business operation. Reliable standards of comparison are difficult to single out, but it is safe to say that the administration of the Canal

> Zone compares favorably with the best examples of British colonial administration, according to competent observers, and that it is easily the most successful government enterprise under the American flag outside of continental United States. The government of the Canal Zone may well be considered a model for the territories and dependencies of the United States.
>
> The general results of business management in the Canal Zone supply additional confidence in the ability of government to conduct economic services satisfactorily, judged by any standards of comparison.
>
> . . .
>
> Consideration of the results achieved in the Canal Zone strengthens the belief that there are no inherent reasons why private ventures should succeed or why public commercial undertakings should fail. In the Canal Zone one finds evidence of the falsity of the gospel that has been preached in the United States for years, namely, "Government is by its very nature inefficient." Government has no nature. A growing body of evidence points to the fact that, assuming the desire and the intelligence to create the proper conditions, public management of economic services produces results which are every bit as satisfactory as are corresponding results under private administration.

IT is this back-slapping spirit that pervades the entire book of 238 pages. What makes it slightly amusing is that that is so unnecessary. The author of this review yields to no one in his personal regard for the high calibre of effective administration that the Army Engineers have shown in the Canal Zone. It is the one bright spot in governmental operation. But when Professor Dimock attempts to hold it up as evidence that the government can operate private business effectively, that is quite a different matter. He says "the Canal Zone enterprise has been a success when judged by ordinary business standards." Let us see about that.

Almost $600,000,000 have been invested by the United States Government in the Canal Zone development. The single government corporation has been compelled, properly enough perhaps, to operate steamships, a railroad, hotels, stores, factories, and other economic services as an incident to the operation of the canal and the comfort and well-being of the Canal Zone employees. The annual reports of the governor of the Panama Canal Zone show that this governmental agency pays no other taxes than a treaty payment of $250,000 to the Republic of Panama, or approximately 3 per cent of the taxes levied upon American railways by local governments. Yet, its revenues above operating expenses produce an annual return of only about 2.23 per cent on the capital investment. (Professor Dimock's figures are rather vague but he admits that the revenues for all time fall more than $17,000,000 short of a 3 per cent return on an investment of $539,-200,059.)

THIS is not a bad record when one looks at it as a government operation. The wonder is that it earns any profit at all. It is probably the only substantial business undertaking of Uncle Sam that has ever done so. But "judged by ordinary business standards" can this be called a success? What private business having such a record over such a period would dare to claim itself a commercial success? Let us remember that this investment is the taxpayers' money and if it had been invested during that period in almost any kind of conservative American business it would have yielded much better besides paying taxes.

Of course, there are certain considerations that explain this low earning. As Professor Dimock points out, the Panama tolls are much less than those of Suez, while the investment in Suez is half that of the Panama. Again, there are certain advantages of national defense that accrue from our possession of the canal. Perhaps these factors justify the 2.23 per cent earning, but the value of the canal as a subsidy to international shipping, or as a defense project, is something quite different from ordinary business success. Incidentally, there may be indirect losses as well from the canal. Said the *Chicago Tribune*, June 1, 1934:

> The administration owes it to the Middle West to make a better effort than it

has so far to show cause why these tolls cannot be advanced to a paying basis. The construction of this great project has proved a boomerang to this section of the country and the least that can be done is to raise tolls to a point that will produce a fair return on the money taken from the inland states to produce a facility that has benefited only the seaboard.

BEING satisfied that the Canal Zone is a prize exhibit of government operation of business enterprise, Professor Dimock goes on to tell us how he would reorganize it to make it even better. During his three months' visit he reached some very plausible conclusions, but they are somewhat inconsistent with the argument that the Panama canal is a "success" because it has been administered by the government. Professor Dimock would improve that degree of success by reorganizing the Canal Zone administration so as to make it more like a "business enterprise." He favors the use of a new government corporation to take over the canal and the Panama Railroad Company. Also he recommends a separation of the governmental functions from the business functions, so that the control of the municipal government would be exercised by an independent Department of Civil Affairs to be directly under the governor. Finally, he would have the U. S. Minister to Panama recalled and the governor given more freedom in handling local affairs. We are told that the Panama Canal Corporation should be "responsible for building up its revenues for replacement and expansion instead of having to depend upon Congress's knowledge and benevolence."

All of these recommendations seem sound enough, or at least worthy of further consideration. Professor Dimock has written on the whole a readable and interesting book. It might more accurately be called a presentation of the operating set-up of the Panama canal than an "analysis" . . . "without bias or propaganda" as its jacket claims. It is marred only by the author's tendency to congratulate the canal administration upon what is entirely a false premise—that it is a successful business operation.

The Panama canal is only a *quasi* business operation. It was built and operated by the government because it could not possibly be done otherwise. The failure of the old Compagnie Universelle du Canal Inter-oceanique-de Panama is mute testimony that the project was by its very nature too big and complicated for private enterprise. The Army Engineers may well be proud of what they have built and the way it is operated. But when one tries to distort this record into evidence that government operation of business enterprises generally can be successful, as judged by the ordinary standards of business, the case just doesn't stand up as it should.

—F. X. W.

GOVERNMENT-OPERATED ENTERPRISES IN THE PANAMA CANAL ZONE. By Marshall E. Dimock, Ph.D., Associate Professor of Public Administration, The University of Chicago. University of Chicago Press. Price $2.50. 248 pages.

ECONOMIES OF GOVERNMENT OWNERSHIP. Editorial. *Chicago Daily Tribune.* June 1, 1934.

Other Articles Worth Reading

COAL AND ITS COMPETITIVE FUELS. By Carroll B. Huntress. *The Black Diamond.* September 1, 1934.

CRACKING PRIVATE SAVINGS WITH WEDGE OF SOCIALISM. By R. M. Hofer. *Industrial News Review.* September, 1934.

RECENT DEVELOPMENTS IN THE CONTROL OF PUBLIC UTILITIES IN THE STATE OF WASHINGTON. By J. K. Hall. *The Journal of Land & Public Utility Economics.* August, 1934.

WHERE WE ARE GOING. *Electrical World.* September 1, 1934.

The March of Events

Transit Industry Optimistic at Annual Convention

OPTIMISM concerning the future prospects of the transit business marked the 53rd Annual Convention of the American Transit Association, held recently in Cleveland. The final attendance registration total was almost 4,000, according to the *Transit Journal News*.

Anticipating a constant increase in leisure as mechanization of industry progresses, City Manager Clarence A. Dykstra of Cincinnati forecast a growing demand for transportation, according to the *Cleveland Plain Dealer*.

"It will play a large part in community planning," he said. "In this field, coördination has to take the place of competition if there is to be adequate service at reasonable cost."

Manager Dykstra's talk climaxed an all-day program devoted to the presentation of the new $1,000,000 street car developed by the coöperative efforts of manufacturers and operating companies interested in the traction industry.

Dr. Thomas Conway, Jr., of Philadelphia, chairman of the Electric Railway Presidents' Conference Committee, which sponsored development of the new car, presided at a luncheon for special guests at the presentation exercises, where Federal Railroad Coördinator Joseph B. Eastman was the principal speaker.

Citing the street railways' history as a measure of man's knowledge of the future, Eastman gave the industry great credit for its "enlightened coöperation" in the enterprise which reached its climax in the $1,000,000 car designed by Dr. C. F. Hirshfeld of Detroit, the engineer drafted from unrelated lines to do the job.

President Roosevelt's plans for "decentralization of industry" really mean a decentralization of the workers, who will become dependent upon economical transportation with speed and safety between scattered suburbs and the cities where they work, Henry R. Harriman, president of the United States Chamber of Commerce and chairman of the Boston Elevated Railways, told members of the association.

"I do not believe," he said, "that our political mechanism has yet advanced to the point where public ownership is wise."

Urging recognition by transit officials of their function as "trustees for car riders, investors, employees, and the general public," A. J. Lundberg, president of the East Bay Street Railways of Oakland, Cal., said they must pursue an "open book" policy and, if necessary, content their investors with "a very small slice of pie."

R. N. Watt, vice president of the Montreal Tramways Company, made an appeal for intelligent and concentrated efforts by traction managements to arouse public opinion against the follies of parking on congested thoroughfares. He said the great achievement in producing the $1,000,000 "noiseless" street car for fast service on transit systems would be entirely without benefit unless streets were kept open.

William E. Wood of New York, president of the association, said that traffic generally in the industry had increased since the beginning of New Deal activities. He said that all of the increased business could not definitely be traced to administration policies, but that there was no doubt that business had improved in the last year.

Officers elected by the American Transit Association for the coming year are:

President, F. R. Phillips, president, Pittsburgh Railways Co., Pittsburgh; vice president, Edward Dana, executive vice president and general manager, Boston Elevated Railway, Boston; treasurer, F. W. Doolittle, vice president, the North American Company, New York.

PWA Announces Policy on Municipal Plant Loans

ACHIEVEMENT in certain instances of the administration purpose of making electric energy more widely available at cheaper rates recently led to a clarification of the policy on power by the Public Works Administration.

Municipal or local publicly owned power projects will be aided by PWA only when, in addition to meeting those qualifications necessary for public works projects, they assure electricity to communities at rates substantially lower than otherwise obtainable under the unchanged basic policy enunciated by Administrator Ickes.

The statement of Administrator Ickes followed action by some privately owned utilities, which, on reëxamination of their condition, found it possible to reduce rates to a point below those proposed by municipal project plants.

Before approving a loan for a municipal power project, Mr. Ickes said that PWA makes it a practice "to give the company an opportunity to put in effect rates at least

as low as those at which the municipal system will be self-liquidating." Several utility companies, Mr. Ickes pointed out, have accepted this opportunity. It is obvious that in such cases it is advantageous to the city and to PWA that the offer be accepted and the applications withdrawn. To make loans and grants to finance projects where the competitor offers rates which are lower than those possible by the city plant, Mr. Ickes contended, would duplicate facilities without any social betterment and impose on the city a burden which it probably could not meet without resort to taxation.

Mr. Ickes also said that PWA will coöperate with cities to prevent rates rising on an indication municipal plants may not be built, and that PWA will not rescind allotments or suggest the withdrawal of applications until the lowered rates are legally in effect.

Probe Natural Gas Utilities

THE natural gas industry is to be the principal subject of the Federal Trade Commission in its investigation of the public utilities under the extension of its work to January, 1936, authorized by the last session of Congress, according to *The Wall Street Journal*.

The electric utilities and holding corporations have borne the brunt of the past six years of Federal probing, but now the commission is to make a thorough examination of pipe-line companies engaged in the transmission of natural gas, and their associated producing and distributing companies.

In its interim report of progress in its power and gas utility investigation sent to the Senate recently the commission emphasized the national importance of the natural gas industry which it said was apparent when it is realized that it is already delivering to the public several times more energy than that represented by the entire commercial supply of electrical energy, and that interstate pipe lines from the natural gas fields deliver gas to near the metropolitan area east of the Rocky Mountains except in New England and a few southeastern states.

Railroads Form New Group

REPRESENTATIVES of class 1 railroads of the nation September 21st approved a plan for coördination of all efforts to solve their common problems.

The plan approved is the formation of the Association of American Railroads, an organization which will supplant the Association of Railway Executives and the American Railway Association.

John J. Pelley, president of the New York, New Haven & Hartford Railroad, was elected president of the new association.

Representation for the government and the general public on the board of the newly formed association was proposed by Chairman Jones of the Reconstruction Finance Corporation, with a view to expediting consolidations and promoting greater economy and efficiency in railroad operation, according to a statement published in *The New York Times*.

In voicing the suggestion, Mr. Jones recalled that, although authorizing legislation had been passed by Congress in 1920 and a national consolidation plan promulgated by the Interstate Commerce Commission a few years later, no substantial progress had been made in this direction.

Plan New Seaway Bureau

ESTABLISHMENT of a central bureau at Washington to coördinate efforts of groups interested in ratification of the St. Lawrence waterway treaty was discussed recently when Governor Olson of Minnesota met with representatives of the governors of Michigan, Indiana, and Wisconsin. Governor George White of Ohio expressed his support of the plan.

The agency at the capital, according to the *Associated Press*, would be supported by the three principal organizations interested in establishing a treaty with Canada. These are the Governors Association for Ratification of the St. Lawrence Waterway Treaty, the Great Lakes Tidewater Association, and the Great Lakes Rivers and Harbors Association. The latter groups already have concurred in the coördination plan.

Dr. Magill Heads AFUI

DR. Hugh S. Magill announced his resignation as general secretary of the International Council of Religious Education in order to become president of the American Federation of Utility Investors, according to the *Chicago Daily Tribune*.

When it was learned last spring that Dr. Magill, who twelve years ago brought about mergers to create the council, had been one of the founders of the American Federation of Utility Investors he was assailed by what he termed radical religious journals and socialist pastors.

"My issue," Dr. Magill said, "is this: We not only have a right to protect innocent investors, but also, we ought to protect their rights in every way we can.

"I believe this question is now a great national issue and a great religious one as well."

Alabama

TVA Seeks Power Plants

THE public service commission hearing on the proposal of the TVA to purchase 14 municipal power distribution plants in North Alabama was combined with another hearing slated October 23rd, in Birmingham, on the sale of transmission lines and other properties in the Muscle Shoals area, according to *The Nashville Banner*.

All the involved properties are owned by the Alabama Power Company, which petitioned the commission for the combining of the cases.

The power company said that the request was made "at the suggestion of the TVA."

Confirmation of the sale of power systems in 14 north Alabama towns to the TVA by the Alabama Power Company was recommended recently by representatives of the affected towns at a public hearing of the public service commission.

Oppose Gas Rate Boost

INSTRUCTIONS were issued by the city commission to City Attorney Wynn recently to oppose vigorously any increase in gas rates in Birmingham, according to *The Birmingham News*. A resolution offered by Commission President Jones, and unanimously adopted, instructed the city attorney to intervene in a petition filed by the Birmingham Gas Company for an increase in rates amounting to about 26 per cent.

Arkansas

PWA Grant Reduced

PUBLIC Works Administration recently announced that a loan and grant to Osceola of $52,000 for improving the municipal electric plant had been changed to a grant of $15,000 because the city sold bonds in private markets to finance the project, according to a statement published in the *Arkansas Gazette*.

Idaho

Projects Denied FERA Funds

A DELEGATION of Blackfoot residents headed by Mayor Thoreson learned recently from Governor Ross and FERA officials that no financial aid could come from the relief agency to build a $200,000 power plant for the city on the Snake river.

Governor Ross, according to *The Deseret News*, said the amount of material required in the project took it out of the scope of the relief agency, which, he added, was aimed primarily at providing direct labor.

Similarly a request from Preston for about $45,000 for an improvement of the municipal water supply was rejected as it required $32,000 of the amount for materials.

Orders Phone Rate Cut

THE public utilities commission recently ordered the Interstate Utilities Company to reduce the rates it charges for furnishing exchange service to about 21 rural telephone lines in north Idaho.

The commission said the charge previously had been 50 to 75 cents monthly for each customer on the rural lines, and ordered a new rate in the whole territory of $4 a year.

Indiana

Utilities Fight Housing Order

TWO Indianapolis utility companies filed formal remonstrances recently with the board of public works against the proposed vacating of streets and alleys where the Federal housing project unit is to be built, according to *The Indianapolis News*.

The Citizens Gas Company asked damages of $7,747.50, and the Indianapolis Water Company, $12,305.74. Each remonstrance said that vacating of the streets and alleys was for a

private purpose and, consequently, not invalid.

The chief damage which would be suffered by the property is in the abandonment of mains. The gas company said it leased the mains from the Indianapolis Gas Company, to which it is required to pay a large sum, and that the lease provides the mains must be left in good condition.

Kansas

Plan Gas Rate Hearings

THE corporation commission will not begin gas rate hearings until late October or early November, according to the *Topeka State Journal*. An agreement to that effect was reached by attorneys for the Cities Service distributing companies and for the commission and the members of the commission.

The rate case involves charges at city gate rates by the Doherty companies and is a revival of the rate hearing during the Woodring administration which cost the state and the gas companies about $400,000.

Maine

Bangor Utility Reduces Rates

THE Bangor Hydro-Electric Company recently filed a schedule of rate reductions for its entire system except rural territories now forming part of the Bangor division.

The schedule was described as reducing the Class A rate 15 per cent at a saving to consumers of about $70,000 effective November 1st.

Included in the schedule was the creation of three divisions in the company's system instead of the present six.

The straight-line rate of 9 cents now in force would be eliminated by the following arrangement: Eight cents the first 25 kilowatt hours; 5 cents the next 50, 3 cents the next 150, and 1½ cents for all over 225.

The room area basis would also be eliminated.

Maryland

Orders Discount Continued

CONTINUANCE of the 8½ per cent discount to patrons of the Washington Gas Light Company in Montgomery county and the Georgetown Gas Light Company in Montgomery until December 31, 1934, has been ordered by the public service commission, according to the *Washington Evening Star*.

The reduction, which was first ordered by the commission in August, 1932, and was to expire at the end of that year, has been extended by various orders, the latest in June this year, which was to expire September 30th.

The order applies to all bills except the authorized minimum bills under schedules of the company filed with the commission.

Massachusetts

Sets Hearing on Gas Rates

THE public utilities commission will give a hearing November 8th on the new rates of the Boston Consolidated Gas Company, according to the *Boston Evening Transcript*.

The commission has given tentative approval of the new schedule, which, instead of the old service charge of 50 cents a month, prohibited by an act of the last legislature, increases the cost of the first 100 cubic feet of gas from 10 to 60 cents.

Mayor Mansfield and many other petitioners have protested against the new rates. Chairman Henry C. Attwill said it was necessary for the commission to approve the new schedule as submitted "or the Boston Consolidated would have no legal rate whatever."

Missouri

Trucks Ordered Off Road

THE public service commission, in an experiment believed unique in the United States, is attempting to segregate truck from motor car traffic on state highways.

Commission Chairman John Caskie Collet is attempting to bar commercial trucks from a new cut-off built into St. Louis from Highway 66, forcing operators to use the old road and leaving the new concrete slab free for the public.

If successful, Collet plans to separate commercial and public automobile traffic wherever possible and where alternate routes are available.

New York

James Blaine Walker Retires

JAMES Blaine Walker's application for retirement from his long-held post as secretary of the New York State Transit Commission was approved by that body, effective October 1st, according to *The Wall Street Journal*.

Mr. Walker had served continuously for twenty-six years with the transit commission and its predecessor. He plans to devote himself to private business in New York as a transit consultant.

Mark Nomburg, assistant secretary of the commission succeeds Mr. Walker as secretary. Mr. Nomburg was appointed assistant secretary of the commission December 17, 1928. Prior to his appointment he had been, for fifteen years, a newspaperman, serving in various reportorial and executive capacities on New York newspapers, particularly as a political and city hall reporter.

North Carolina

PWA Loans for Power Projects Hang Fire

NORTH Carolina applications for PWA loans continue to hang fire, following the recent declaration by PWA Administrator Ickes that there has been no change in attitude by the administration toward loans for municipal light plants, but that the situation of some municipalities has changed.

"In some instances privately owned companies have reduced rates to a point where the rates will make it impossible for municipal plants successfully to compete," explained Secretary Ickes.

It is understood, according to *The News and Observer*, that the point referred to has not yet been reached in North Carolina, despite recent reductions in this state.

The Federal Power Commission which has had before it since last April a request for an opinion on the $6,500,000 applications of the Piedmont Municipal Electric Company, Inc., which would serve 17 North Carolina communities, recently asked the PWA for further information on which to act. All the communities now are served by the Duke Power Company.

The city of Lexington, which is also served by the Duke Company, has been striving unsuccessfully for two years to get a loan and grant of $600,000 for a municipal plant, the application having been first made to the RFC before creation of the PWA.

Recently Congressman Walter Lambeth appeared before Secretary Ickes and demanded a "yes or no" answer on the application, but no action has yet been taken.

A loan and grant of $2,800,000 for Greenwood county for the construction of a hydro-electric plant, which was bitterly fought by the Duke Power Company and the Duke Endowment, is being held up on a technicality. The PWA legal division wants a ruling from the South Carolina Supreme Court in view of the constitutional provision in that state forbidding a county to engage in business, it is reported.

Offers Lower Electric Rates

THE Carolina Power & Light Company has proposed new rates that would effect savings of several hundred thousand dollars a year to consumers in North Carolina, but, according to *The News and Observer*, the utilities commission has not agreed to them because it has not been convinced that the proposed schedule offers as great a saving as may be obtained.

North Dakota

Case Headed for Highest Court

NORTH Dakota's 12 per cent gross earnings tax law may reach the U. S. Supreme Court by December 20th, P. O. Sathre, state attorney general, said recently, according to a statement published in the *Bismarck Tribune*.

An appeal to the highest court in the land is in prospect, regardless of the decision of the *en banc* Federal court which heard arguments in the case September 14th and 15th at Minneapolis, Sathre said.

Should their decisions be adverse to the state, an appeal will be taken by Sathre to the U. S. Supreme Court.

Involved in the action, which was heard before a special court of three judges, is approximately $750,000. The utilities are attacking the measure, under which the tax is levied, as unconstitutional and discriminatory. Six utilities are plaintiffs in the action.

Ohio

Truce Reached in Rate Case

THE city and the Columbus Railway, Power & Light Company have agreed to "cease fighting" over the 4-cent light rate ordinance passed by the Columbus city council and approved by the voters a year ago, according to the *Columbus Evening Dispatch*.

If the voters on November 6th approve the 5-cent compromise rate ordinance, which will save electric light consumers $734,000 annually, then the truce will become permanent.

If the electorate rejects the new light rate ordinance, the truce will end and the city and utility will renew hostilities before the state utilities commission. Later the fight, regardless of the decision of the commission, probably will be carried into the courts, for the Rail Light Company has declared its intention of waging a "fight to the finish" against the 4-cent rate ordinance.

The 5-cent ordinance which the company has declared it will accept will bring about a reduction of 18 per cent in light bills of domestic consumers and a refund of $400,000 in impounded revenues.

Power Rates Equalized

THE Ohio Electric Power Company recently won the right to sell its service for the same rates now charged for power by the municipally owned light plant at Oberlin.

The public utilities commission authorized the utility to offer service at the same rates now collected by the municipal plant after it had previously overruled the request of the Ohio Electric Power to put into effect a rate schedule lower than that charged by the city of Oberlin.

The monthly rates to be charged by both of the plants follow:

Five cents for the first 20 kilowatt hours, 4 cents for the next 30, 3½ cents for the next 150, 3 cents for the next 800, and 2½ cents for all in excess of that amount with a monthly minimum of 75 cents for residential and commercial current.

At a 2-day dedication program for the new $240,000 municipal light and power plant, City Manager Leon A. Sears announced that more than 90 per cent of Oberlin's residents and business interests have agreed to use the municipal service.

Power Plant Petitioned

A PETITION signed by 1,130 persons seeking a vote at the November election on the question of a municipal power plant for East Liverpool has been submitted to city authorities, according to the *Columbus Evening Dispatch*.

At the same time East Liverpool gas users viewed the prospect of having to pay only 85 cents for the first 1,000 cubic feet of gas they use, as against the $1 and $1.15 they are now paying for the same amount. The new rates were included in an order passed by city council for new legislation to cut the present gas prices in the city.

Utility Requests Rehearing

ATTORNEYS for the Columbus Railway, Power & Light Company recently announced that they would file an application for a rehearing with the public utilities commission in the appeal from the ordinance rate as passed by city council last fall, according to the *Columbus Evening Dispatch*.

Karl E. Burr, chief of counsel for the company, said that should the commission continue the case, the company's rights would be protected and at the same time a virtual truce between the company and the city would remain in effect until after the November election when voters will have opportunity to accept or reject a compromise rate ordinance.

Seek Rate Reduction Approval

THE utilities commission recently was asked by the Dayton Power & Light Company to approve the establishment of reduced gas rates at Sabina, called for under an ordinance accepted by the company on September 7th.

The new rates would be $1 for the first 500 cubic feet per month and 50 cents per thousand cubic feet over that. The company is now collecting $1 for the first 500 cubic feet and 60 cents per thousand cubic feet for each 1,000 of the next 19,500 cubic feet.

Plans Gas Refunds

THE city of Cleveland has given its approval to a plan under which 232,000 Cleveland customers of the East Ohio Gas Company will receive by Christmas Eve refunds totaling $3,240,000, an average of more than $14 a customer, according to the *Cleveland Plain Dealer*.

The East Ohio Company began September 30th putting into effect a gas rate reduction that will save Cleveland consumers $1,185,000 a year.

Refuses to Reopen Case

HOLDING there is no ground for reconsidering evidence on which it recently ordered $12,000,000 refunded to subscribers, the public utilities commission has refused to reopen the Ohio Bell Telephone rate case, according to the *Columbus Evening Dispatch*.

The company had sought to rebut the testimony of E. G. Wood, commission accountant, whose figures were the basis for the commission's refund order.

Pennsylvania

PSC Appointees Confirmed

THE state senate September 19th confirmed Governor Pinchot's five appointees to the public service commission, marking the end of a 7-year battle between the governor and the Republican state organization.

The commission members confirmed are: Chairman C. Jay Goodnough, Pinchot-Grundy leader of Cameron county; P. Stephen Stahlnecker, of Harrisburg, the governor's former secretary; Herman J. Goldberg, of Wilkes-Barre, friend of Attorney General William A. Schnader, G.O.P. gubernatorial nominee, his former deputy, and a protégé of Judge John S. Fine, Republican boss of Luzerne county; Frederick P. Gruenberg and Thomas C. Egan, both of Philadelphia.

South Carolina

Offers Bargain Rates

FREE electricity and half-price gas may be available to Columbians for a period of sixty days beginning October 1st, the Broad River Power Company announced recently, according to *The Columbia Record*.

The offer is based upon the plan that residential customers will pay only as much for electricity as they did during the month of last July and that all electricity used in excess of the July bill would be free. The gas offer will be based upon the amount of the monthly bill for gas service during the corresponding period of 1933, and all gas used in excess of the amount for that period will be billed at half price.

In a letter to customers, the company said that all bills rendered on and after October 1st will be calculated on the new low rates in accordance with the rate reductions recently approved by the state railroad commission.

Two Utilities Cut Rates

ELECTRIC rate reductions of two power companies totaling $141,937 annually to consumers of the Pee Dee and lower section of the state have been announced by the railroad commission, according to *The Columbia Record*.

The South Carolina Power Company of Charleston offered new schedules, which were accepted, to bring about a $47,000 annual reduction immediately to consumers in 54 towns. The company made a $161,800 reduction in July, 1933.

The Carolina Power and Light Company of Raleigh will install new schedules effective December 1st to bring about an annual reduction of $94,937 to consumers in 48 towns.

Tennessee

Preferred Stockholders Seek to Halt TVA Sale

NEGOTIATIONS in the sale of the electric power properties of the Tennessee Public Service Company to the TVA were against a formidable barrier in the form of a bill filed in United States District Court in Knoxville, September 27th, asking for an injunction to prevent the sale.

The bill was filed by attorneys representing preferred stockholders of the company.

Calling the TVA program a "violation of the Federal Constitution," the bill charged that the Authority was without the right to acquire and operate a utility system or determine rates for a local utility system and that the Authority contract made July 17th for the T.P.S. sale was "forced by duress of the TVA."

The bill further charged that the Authority program of promoting public ownership under TVA control was illegal.

The TVA has entered into a contract to purchase the T.P.S. properties for $6,088,000. If purchase is made, these properties would be turned over to Knoxville for operation.

Prior to the inception of the TVA negotiations, Knoxville obtained a loan grant of $2,600,000 from the PWA for construction of a municipal power system, but discarded its plans when the TVA entered into a contract of purchase with the Tennessee Public Service Company.

PWA Administrator Ickes recently indicated that unless the PWA loan to Knoxville for the construction of an electric power plant was spent in the near future, the loan would be rescinded.

Election Set on TVA Power

THE city commission recently passed an ordinance calling for a referendum election November 6th, when the voters of Memphis will decide whether they want TVA power, according to *The Knoxville Journal.*

The referendum, to be held at the regular fall election, will determine whether the city will issue up to $9,000,000 in bonds to acquire, by purchase or construction, an electric distribution system for TVA power.

Texas

Injunction Granted Utility

A TEMPORARY injunction restraining the city of Wichita Falls from putting into effect an ordinance lowering telephone rates has been granted to the Southwestern Bell Telephone Company by Judge William H. Atwell in the United States District Court.

The telephone company posted a $50,000 bond to secure the defendants and all Wichita Falls telephone subscribers who may be entitled to sums which the company may have collected under the restraining order should the injunction be quashed later.

Utah

Authorizes Municipal Plant

AN ordinance authorizing the acquisition by the city of Bountiful of an electric light and power system, and the issuance of electric light and power 6 per cent revenue bonds, was approved by the city council, three to two, recently, according to a statement in *The Deseret News.*

Light Rates Reduced

ELECTRICAL power rates for all users in Cedar City have been reduced as the result of the city's recent grant of a 10-year franchise to the Southern Utah Power Co.

A reduction from $1.25 to $1 has been made in the minimum charge for residential lighting.

Virginia

VPS Joins Other Utilities in Wide Rate Cut

THE Virginia Public Service Company has followed the Appalachian Electric and Power Company and the Virginia Electric and Power Company with a reduction in rates to affect most of its customers, making a total reduction in power rates for the past year approximately $751,500.

The VPS plan affects 42,000 customers, and provides a cut of approximately $77,700 to electricity users, and about $36,000 to gas consumers.

Under the state corporation commission's 1933 plan the three major power companies were investigated in an informal proceeding, the commission having retained the Allen J. Saville organization for the work. In none of the three cases was it necessary to institute a regular investigation, the companies having in the light of the Saville valuations decided voluntarily to cut their rates.

The Appalachian cut $186,800 from its consumers' annual electric bills; the Virginia Electric and Power Company $366,000 from its power bills, and $85,000 from its gas bills in the Norfolk area.

The Saville investigation cost the state $50,000, less than the cost of one formal rate investigation.

Regarding the VPS cut, the commission said that "Effective October 1, 1934, the first step in domestic lighting and small appliance rate will be reduced, which will affect immediately about 38,500 customers with an annual reduction of about $41,000. Successive changes, by reducing the number of kilowatt hours in the first step, and reducing the rate per kilowatt hour after the first step, are to be made effective January 1, April 1, and September 1, 1935, which will effect an additional reduction of about $36,700. The total reduction, as a result of the new rates, will be about $77,700."

Reduces Electric Rates

THE Virginia Public Service Company has filed a schedule of lower residential electric rates with the corporation commission pursuant to its recent announcement that it would revise its tariffs downward, according to a statement in *The Richmond News Leader*.

Lower rates will apply upon all bills to residential consumers except the minimum consumers using less than 10 kilowatt hours.

The new rates are expected to save the consumers of the company not less than $77,700 the first year and benefits about 42,000 consumers.

West Virginia

Answers New River Suit

THE Federal government's suit to stop construction of a power dam in the New river at Hawk's Nest was answered recently by the Electro Metallurgical Company, according to the *Associated Press*. The company asserted that the stream is not navigable and that therefore the Federal government has no control over it.

The answer was filed jointly by the Electro Metallurgical Company, New-Kanawha Power Company, and the Union Carbide & Carbon Corporation and says the project is almost completed.

The suit, filed June 11th by District Attorney George I. Neal, was said by the department of justice at that time to be a direct assertion of the government's right to regulate the stream flow of navigable rivers.

Wisconsin

Water Plant Deal Delayed

WHETHER the city of Ashland will purchase the Ashland water plant will not be decided until next spring, as the city council for the second time postponed the referendum scheduled for November 6th, according to *The St. Paul Pioneer Press*.

Affirms Price for Utility

A PREVIOUS order fixing $9,500 as the price the village of Fall River shall pay to acquire the Wisconsin Power and Light Company's distribution system there has been affirmed by the public service commission, according to *The Wisconsin State Journal*.

The Latest Utility Rulings

Public Benefit Need Not Be Shown to Justify Property Transfer

THE question has arisen in recent years whether public benefit must be shown in order to obtain commission authority for the transfer of interests in public utilities. On the one hand, it has been contended that such public benefit should be demonstrated, while, on the other hand, it has been contended that in the absence of detriment to the public the transfer should be approved.

The Missouri Supreme Court has reversed its former opinion and held that public benefit does not have to be shown. This ruling was made in a decision sustaining a commission order which authorized the Utilities Power and Light Corporation, a foreign corporation, to acquire more than 10 per cent of the shares of stock of the Laclede Power and Light Company and the Laclede Gas Light Company.

The court referred to its former decision in State ex rel. St. Louis *v.* Public Service Commission (1932) 331 Mo. 1098, P.U.R.1933B, 465, where authority was denied a foreign corporation unlawfully doing business in the state to acquire stock in a domestic corporation. The court expressed the belief that its decision in that case was correct but that the court was not correct in some of the reasons assigned, stating:

> We do not agree with that part of the opinion which holds that, before a corporation can purchase more than 10 per cent of the stock in a domestic utility, it is incumbent upon the commission to find that the public will be benefited by the transfer. That part of the opinion should be no longer followed.

The basis for the change of opinion is a recognition of the right of property owners to sell or not to sell their property as they please when the public is not affected. On this point the court said:

> The owners of this stock should have something to say as to whether they can sell it or not. To deny them that right would be to deny to them an incident important to ownership of property. Ottawa *v.* Public Service Commission (1930) 130 Kan. 867, P.U.R.1931A, 307. A property owner should be allowed to sell his property unless it would be detrimental to the public.

State ex rel. St. Louis v. Public Service Commission of Missouri, et al. 73 S. W. (2d) 393.

Approval of Loan Made to Affiliated Company Is Refused

THE Pennsylvania commission, acting under a new law enacted in 1933 requiring the commission's prior approval of transactions involving the loan of money by public service companies to affiliated interests, has refused approval of a loan by the West Penn Power Company to the Monongahela West Penn Public Service Company. The loan was made during July, 1933, following the effective date of the new law.

The commission considered the circumstances surrounding affiliated transactions whereby a parent company had sold to the West Penn Power Company its equity in the common stock and unsecured book account of the Mononga-

hela Company, the present balance sheet position of the Monongahela Company, its past and present earning capacity, and its consequent probable ability to repay the loan under review. The commission stated:

> In passing upon an application covering the lending of money by a public service company to an affiliate, it is important that consideration be given to the character of service rendered by the borrowing company, its past financial history and present balance sheet position, its past and present earning capacity, and its ability ultimately to repay the loan.

The borrowing company had repaid $100,000 of the amount loaned pending action on the application, but the commission was of the opinion that the repayment of part of the loan while the application was pending did not relieve the applicant of its duty under the law to secure approval of the loan as originally made and, therefore, the commission gave consideration in the report to the amount of money originally loaned, namely, $410,000. *Re West Penn Power Co.* (*Application Docket No. 31907*).

Criminal Liability for Violating Rule of Administrative Body

ATTENTION has been focused upon the rapidly expanding system of departments, bureaus, and other administrative agencies possessing power to adopt orders, rules, and regulations, the violation of which may constitute a crime. The validity of legislation having this result has been sustained by the supreme court of Missouri in a case where the operator of a motor carrier service violated a rule of the Missouri commission relating to signals by stalled cars.

The court took the view that the crime and the penalty therefor were declared by the legislature and not by the commission; that the commission, in adopting the rule, was not legislating; that the commission merely administered the law in adopting its rule; that no penalty was prescribed by the commission for the violation of any of its orders or rules; and that violation of the rule automatically subjected the violator to the penalties established by the legislature.

The court stated that the identical question had been decided by the supreme court of Massachusetts in Brodbine *v.* Revere (1903) 182 Mass. 598, 66 N. E. 607, where a penalty was imposed for violation of rules and regulations adopted by a park commission.

The Supreme Court of the United States, it was said, had also spoken on the subject in United States *v.* Grimaud (1911) 220 U. S. 506, 55 L. ed. 563. In that case rules and regulations established by the Secretary of Agriculture, under congressional authority, were violated. Violation of such rules was made a crime. It was held that Congress had the power to authorize an administrative body to make certain rules and regulations, and that in doing so Congress had not delegated any legislative authority. *State v. Dixon, 73 S. W. (2d) 385.*

Interests of Coal Dealers Cannot Prevent Gas Rate Cut by City

THE Colorado commission has dismissed a complaint by a retail coal dealers' association against reduced rates proposed by the city of Colorado Springs, which operates a natural gas plant. Additional-business-basis rates

to industrial patrons were approved.

The complaint was based on claims that the gas system was operated at a loss, with resulting injury to the city; that the proposed rates were prejudicial to the rights of gas users, taxpayers, and holders of natural gas revenue bonds; that the rates would create a further and mounting deficit in the gas department; that the decrease would constitute a violation of the NRA Code; and that the coal industry should be given reasonable protection.

No evidence was introduced as to violation of the NRA Code, and the complainants did not stress the point that the coal industry should be protected. The commission in its decision admits that the coal industry has been and should continue to be one of the main industries of the state, but it is stated that this phase of the complaint was not seriously urged, for the apparently obvious reason that the commission has no power to prohibit what would otherwise be sound and reasonable action by a utility because such action would result in injury to any other industry, whether it be coal, gasoline, or other business.

It is said to be elementary that the power to regulate is not the power to manage. The commission states in its opinion:

> It is only when a utility goes beyond all conceivable reasonable bounds in exercising its managerial discretion that this commission has a right to step in and interfere. Here the utility in the exercise of its managerial discretion takes the position that in its opinion the city will profit by the sale of energy to industrial customers at rates which will permit the city to earn a gross profit of 15 per cent. These rates are, as the evidence shows, the same rates and result in the same profit as are effective and that result in other cities in the state where gas from the same interstate pipe line is furnished.
>
> As we have heretofore pointed out, it is necessary in order to secure large industrial customers to make a lower rate to those customers than is available to other customers who do not consume as much.

El Paso County Retail Coal Dealer's Asso. v. Colorado Springs, et al. (*Case No. 1387, Decision No. 5856*).

Prospective Going Value Is Not Part of Rate Base

WHATEVER may be said in behalf of an allowance for going concern value because of the cost of attaching customers in the past, the Pennsylvania commission holds that no allowance should be made for a going value which a water utility hopes to create in the future.

This ruling was made in connection with the valuation of a company which had acquired a water system, with customers attached, from a coal company formerly furnishing service without charge. The utility company contended that although it had come into being with all its customers physically attached to its lines, it would none the less be unable for a period of time to make this physically attached business a paying business, so that a going cost would have been incurred just as if the customers had not been physically attached. To which the commission replied:

> While there may be some doubt whether a lag in ability to collect tariff charges for physically attached business is equivalent in the law to a lag in attaching business, such going value will not in any event have been developed until this cost of attaching business has been undergone and the paying business attached so as to develop the value for which the allowance is to be made. This value has not as yet been developed, and no allowance can be made now, based only on the hope of the future.

Kowalski et al. v. Mocanaqua Water Co. (*Complaint Docket No. 9498.*)

Municipality May Acquire Waterworks in Suburban Territory

THE Pennsylvania commission has approved an application by the city of Reading for authority to acquire the property of the Angelica Water & Ice Company, which operates outside of the city limits, notwithstanding an objection by another water company operating in the town that the city could not acquire property entirely outside of the boundaries of the city.

The commission said that it was clear, aside from the provisions of a section of the Third Class City Law relating to acquisition of utility plants by municipalities, that the city had the unquestionable right under other provisions of the act to erect its facilities in an adjacent township and to serve the public residing there where competitive conditions are not created. From this premise it was argued that if the applicant had the right to construct its own facilities in order to serve the public, there was no sound reason why it could not acquire those of other persons which had already been constructed, particularly where no third person likewise serving the public was affected. *Re Reading* (*Application Docket No. 32673*).

Colorado Commission Lacks Jurisdiction in Home-rule City

THE Colorado commission has dismissed for lack of jurisdiction a complaint against rates in the city and county of Denver on the authority of Denver *v.* Mountain States Teleph. & Teleg. Co. (1919) 67 Colo. 225, P.U.R. 1920A, 238.

The motion for dismissal was based upon the ground that the commission lacked jurisdiction because the city and county of Denver was a charter city organized and operating under the Twentieth Amendment to the state Constitution, and that under such amendment and under the charter the sole and exclusive jurisdiction over rates was vested in the city and county of Denver. *Spears v. Public Service Company of Colorado* (*Case No. 1401, Decision No. 5883*).

Other Important Rulings

A CARRIER is bound to charge and collect the intrastate tariff rates approved by the North Dakota Railroad Commission, and therefore a shipper cannot sue to recover alleged damages for the charging of unreasonable rates when the carrier has charged the rates fixed by such a tariff. *Woodrich, et al. v. Northern Pacific Railway Co. 71 F. (2d) 732.*

Where no serious complaint had been made against rates of a motor carrier, the Colorado commission decided that, in authorizing operation by a new carrier between the same points, such carrier should be required to charge rates as high as those charged by the present carrier until and unless such rates should be found unreasonable by the commission. *Re Peterson* (*Application No. 2168, Decision No. 5867*).

The New York commission permitted certain electric utilities to revise their rules and regulations so as to provide, among other things, for customer contributions to line extensions where the companies contended that they were unable to finance the extensions them-